

THE NATIONAL ARCHIVES
LITTERA
SCRIPTA
MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 15 NUMBER 228

Washington, Thursday, November 23, 1950

TITLE 3—THE PRESIDENT EXECUTIVE ORDER 10182

PROVIDING FOR THE APPOINTMENT OF CERTAIN PERSONS UNDER THE DEFENSE PRODUCTION ACT OF 1950 AND PRESCRIBING REGULATIONS FOR THEIR EXEMPTION FROM CERTAIN CONFLICT OF INTEREST STATUTES

By virtue of the authority vested in me by the Defense Production Act of 1950, approved September 8, 1950 (Public Law 774, 81st Congress), hereinafter referred to as the Act, it is hereby ordered as follows:

PART I

SECTION 101. (a) The head of any department or agency delegated or assigned functions under the Act pursuant to Executive Order No. 10161, of September 9, 1950, is hereby delegated the authority provided by subsection 710 (b) of that Act to employ persons of outstanding experience and ability without compensation. The authority delegated by this subsection 101 (a) may not be re-delegated.

(b) Such heads of departments or agencies are further delegated the authority provided by subsection 710 (c) of that Act to employ experts and consultants, or organizations thereof.

(c) Such heads of departments or agencies are further delegated the authority provided by subsection 710 (d) of that Act to utilize the services of Federal, State, and local agencies and to utilize and establish such regional, local, or other agencies, and to utilize such voluntary and uncompensated services as may from time to time be needed.

SEC. 102. The head of any department or agency delegated authority pursuant to subsections 101 (a) and 101 (b) of this Part shall be guided in the exercise of that authority by the following policies:

(a) So far as possible, operations under the Act shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(b) Appointments to positions other than advisory or consultative may be made under this order only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(c) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

SEC. 103. The authority delegated by subsection 101 (c) to utilize at the regional and local levels voluntary and uncompensated services is not subject to the policies prescribed in section 102. Such authority may not be exercised, however, to fill positions subject to the Classification Act of 1949.

PART II

SEC. 201. Any person employed under Part I of this order is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, United States Code, and section 190 of the Revised Statutes (5 U. S. C. 99), except as specified in the following subsections:

(a) Exemption hereunder shall not extend to the negotiation or execution, by an appointee under this order, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(b) Exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, under the provisions of the Act made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(Continued on p. 8015)

CONTENTS

THE PRESIDENT

Executive Order	Page
Appointment of certain persons under the Defense Production Act of 1950 and prescribing regulations for their exemption from certain conflict of interest statutes	8013

EXECUTIVE AGENCIES

Agriculture Department
See Production and Marketing Administration.

Air Force Department
Armed Services Procurement regulations; miscellaneous revisions and amendments (see Defense Department).

Alien Property, Office of
Notices:

Vesting orders, etc.:

Baret, Albert Fernand Joseph, and Maurice Florent Edmond Schuermans	8067
Behrens, Wilhelmina, and Rudolph Dosch	8067
Bonwitt, Margarete, et al.	8066
Brass, Alessandro, and Lina Widgopf	8067
Colas, Andre, et al.	8066
Di Falco, Pietro, et al.	8067
Franz, Henry	8061
Gelling, Paula	8061
Gerb, William	8066
Gregorio, Maddalena	8066
Kipf, Gertrud	8062
Knaut, John G.	8062
Metz, Eva	8062
Minami, Toranasuki, et al.	8062
Nerlich, Helene	8063
Ott, Leonhard	8063
Pahlke, Lucy	8063
Rummelein, Luise	8064
Schafer, Anton, and Andeas Sztankay, Zoltan, and Ada	8064
Thorer, Ellinor Gertrud, et al.	8064
Tsumaru, Lillie I., et al.	8065
Uyemoto, Kanichi	8065
Van Lammeren, Willem P.	8065
Yamamoto, Norio, and Shizuko	8065
Zyiberberg, Mary	8065

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

Army Department	Page
Armed Services Procurement regulations; miscellaneous revisions and amendments (see Defense Department).	
Rules and regulations:	
Medical and dental attendance; rates of charges	8052
Civil Aeronautics Board	
Notices:	
Mid-Continent Airlines, Inc.; service to Lincoln, Nebr.; hearing	8054
Civil Service Commission	
Rules and regulations:	
Federal employees' pay regulations, miscellaneous amendments; correction	8015
Commerce Department	
Delegation of authority to Secretary of Commerce with respect to procurement contracts for experimental, developmental, or research purposes by National Bureau of Standards for Executive agencies (see General Services Administration).	
Defense Department	
See also Army Department.	
Rules and regulations:	
Armed Services Procurement regulations; miscellaneous revisions and amendments	8025
Employment Security Bureau	
Rules and regulations:	
Cooperation of U. S. Employment Service and States in establishing and maintaining a national system of public employment offices; miscellaneous amendments	8023

CONTENTS—Continued

Federal Communications Commission	Page
Notices:	
Hearings, etc.:	
Lawton-Ft. Sill Broadcasting Co. and Caddo Broadcasting Co.	8055
Narragansett Broadcasting Co. (WALE) and Eastern Connecticut Broadcasting Co. (WICH)	8056
Sky Way Broadcasting Corp., et al.	8054
Telanserphone, Inc. and Thomas L. Smith, Jr.	8055
Telephone Message Service of Yonkers, et al.	8055
Winter Garden Broadcasting Co. and Community Broadcasting Co. (KUNO)	8056
Rules and regulations:	
Extension of lines and discontinuance of service by carriers; miscellaneous amendments	8053
Radio service, amateur; availability of operator license	8052
Federal Power Commission	
Notices:	
Hearings, etc.:	
Frontier Power Co.	8056
Natural Gas Pipeline Co. of America and Texoma Natural Gas Co.	8057
Federal Trade Commission	
Rules and regulations:	
Wayne Hatchery et al.; cease and desist order	8022
Fish and Wildlife Service	
Rules and Regulations:	
Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin; deer hunting	8053
General Services Administration	
Notices:	
Delegation of authority:	
National Capital Park and Planning Commission with respect to procurement of appraisal services and reports	8057
Secretary of Commerce with respect to procurement contracts for experimental, developmental, or research purposes by National Bureau of Standards for Executive agencies	8057
Indian Affairs Bureau	
Rules and regulations:	
Credit, general, to Indians; interest and educational loans	8023
Interior Department	
See Fish and Wildlife Service; Indian Affairs Bureau.	
Internal Revenue Bureau	
Rules and regulations:	
Spirits, distilled, warehousing; correction	8024
Interstate Commerce Commission	
Notices:	
Applications for relief:	
Glassware to New Orleans, La.	8057

CONTENTS—Continued

Interstate Commerce Commission—Continued	Page
Notices—Continued	
Applications for relief—Con.	
Lime from Sallisaw, Okla.	8058
Motor-rail-motor rates—Chicago Great Western Railway Co. and Freight Ways, Inc.	8058
Ore, ilmenite, from Melbourne, Fla.	8058
Superphosphate to Lyons, N. Y.	8057
Justice Department	
See Alien Property, Office of.	
Labor Department	
See Employment Security Bureau; Wage and Hour Division.	
National Capital Park and Planning Commission	
Delegation of authority with respect to procurement of appraisal services and reports (see General Services Administration).	
Navy Department	
Armed Services Procurement regulations; miscellaneous revisions and amendments (see Defense Department).	
Post Office Department	
Rules and regulations:	
Domestic mail matter, treatment at receiving post offices; miscellaneous amendments; correction	8052
Production and Marketing Administration	
Proposed rule making:	
Milk handling in Chicago and Suburban Chicago, Ill., marketing areas; correction	8053
Rules and regulations:	
Hawaii; Special Agricultural Conservation Program, 1951.	8016
Oranges grown in California or in Arizona, limitation of shipments; correction	8020
Securities and Exchange Commission	
Notices:	
Hearings, etc.:	
Central Power and Light Co.	8060
Southern Natural Gas Co.	8059
Standard Gas and Electric Co. and Wisconsin Public Service Corp.	8059
United Gas Corp. et al.	8060
Wisconsin Electric Power Co. et al.	8058
Treasury Department	
See Internal Revenue Bureau.	
Veterans' Administration	
Notices:	
Organization; correction	8061
Rules and regulations:	
Veterans' claims, miscellaneous amendments; correction	8052
Wage and Hour Division	
Notices:	
Puerto Rico, Special Industry Committee No. 9; investigate conditions and recommend minimum wage rates	8054

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title	Page
Title 3	
Chapter II (Executive orders):	
10161 (see EO 10182).	
10182.....	8013
Title 5	
Chapter I:	
Part 25.....	8015
Title 7	
Chapter VII:	
Part 705.....	8016
Chapter IX:	
Part 941 (proposed).....	8053
Part 966.....	8022
Part 969 (proposed).....	8053
Title 16	
Chapter I:	
Part 3.....	8022
Title 20	
Chapter V:	
Part 602.....	8023
Title 25	
Chapter I:	
Part 21.....	8023
Title 26	
Chapter I:	
Part 185.....	8024
Title 32	
Chapter IV:	
Part 400.....	8025
Part 401.....	8027
Part 402.....	8032
Part 403.....	8038
Part 404.....	8041
Part 405.....	8042
Part 406.....	8044
Part 408.....	8048
Part 410.....	8048
Part 411.....	8048
Part 414.....	8052
Chapter V:	
Part 577.....	8052
Title 38	
Chapter I:	
Part 3.....	8052

CODIFICATION GUIDE—Con.

Title	Page
Title 39	
Chapter I:	
Part 43.....	8052
Title 47	
Chapter I:	
Part 12.....	8052
Part 63.....	8053
Title 50	
Chapter I:	
Part 33.....	8053

(c) In the case of appointments under subsections 101 (a) and 101 (b) hereof, exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment. In the case of appointments under subsection 101 (c) hereof, exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government growing out of any matter with respect to which the appointee was personally concerned in his official capacity during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment.

(d) In the case of appointments under subsections 101 (a) and 101 (b) hereof, exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(e) Exemption from sections 434 and 1914 of Title 18, United States Code, shall not extend to persons appointed, as experts or consultants under subsection 101 (b) hereof.

PART III

SEC. 301. Appointments under subsection 101 (a) of this order shall be supported by written certification by the head of the employing department or agency:

(a) That the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(b) That the duties of the position to which the appointment is being made require outstanding experience and ability;

(c) That the appointee has the outstanding experience and ability required by the position; and

(d) That the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

SEC. 302. The heads of the departments or agencies making appointments under this order shall file with the Division of the Federal Register (for public inspection but not for publication) a statement including the name of the appointee, the section of this order under which he was appointed, the employing department or agency, the title of his position, and the name of his private employer.

SEC. 303. All appointments under subsections 710 (b), 710 (c), and 710 (d) of the Act shall be made under the terms of this order after the date hereof, and appointments heretofore made under those subsections of the Act shall be deemed for all purposes to have been made under this order upon compliance with the preceding sections of this Part.

SEC. 304. At least once every three months, the Chairman of the United States Civil Service Commission shall survey appointments made under this order and shall report his findings to the President and make such recommendations as he may deem proper.

HARRY S. TRUMAN

THE WHITE HOUSE,

November 21, 1950.

[F. R. Doc. 50-10674; Filed, Nov. 21, 1950; 4:18 p. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 25—FEDERAL EMPLOYEES' PAY REGULATIONS

MISCELLANEOUS AMENDMENTS

Correction

In Federal Register Document 50-10399, published at page 7865 of the issue for Saturday, November 18, 1950, the following change has been made in the original document: In § 25.12 the first line of paragraph (a) has been changed to read: "(a) That his current performance rating".

The following corrections to the published document are also made:

1. In § 25.54, the word "minimum" in the 13th line of paragraph (a) should read "maximum", the word "received" in the third line of paragraph (b) should read "receive", and in paragraph (c) the words "these regulations" in the second line and "counter" in the third line should read "this subpart" and "counted", respectively. Section 25.54 as corrected reads as follows:

§ 25.54 *Miscellaneous provisions.* (a) Any officer or employee receiving a rate of basic compensation in excess of the maximum scheduled rate for his grade in accordance with the saving clause in section 604 (b) (11), or section 1105 (b),

of the Classification Act of 1949, or any other provision of law, shall be granted longevity step-increases only when they would have been granted under these regulations and sections 703 (c) of the Classification Act of 1949, if his salary had been at the maximum scheduled rate of the grade at the time such saving clause first applied to his rate of basic compensation.

(b) Any officer or employee who is otherwise eligible for longevity step-increases shall receive full credit for service at the maximum authorized salary rate specified in the Bacharach Act of May 29, 1928, as amended and supplemented, and the Reed-Jenkins Act of May 29, 1928, as amended, to the same

RULES AND REGULATIONS

extent as if such service had been at the maximum rate of a grade of the Classification Act of 1923, as amended.

(c) Service immediately prior to the effective date of this subpart shall be counted toward one, two, or three longevity step-increases as provided above.

(d) The provisions of § 25.13 for periodic step-increases shall be followed in connection with longevity step-increases. (Public Law 580, 81st Congress, approved June 28, 1950.)

2. In § 25.103 (b) the word "amendatory" in the first line should read "mandatory". Paragraph (b) as corrected reads as follows:

§ 25.103 General provisions. * * *

(b) Subject to the mandatory requirements of paragraph (d) of this section and § 25.104, an employee who is reemployed, transferred, reassigned, promoted, repromoted, or demoted may be paid at any scheduled rate for his grade which does not exceed the employee's highest previous rate. If the employee's highest previous rate falls between two scheduled rates of the new grade, he may be given the higher rate. If the employee's existing rate of basic compensation is less than the minimum scheduled rate of the new grade, his compensation shall be increased to the minimum rate.

NOTE: Reemployments after September 1, 1950, are subject to the limitations of section 1302 of the Supplemental Appropriation Act of 1951.

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

PART 705—SPECIAL AGRICULTURAL CONSERVATION PROGRAM

SUBPART—1951—HAWAII

The United States Department of Agriculture offers every farmer in the Territory of Hawaii an opportunity to improve and conserve the fertility of his land through participation in the 1951 Agricultural Conservation Program.

Under this program, part of the costs of the conservation practices is defrayed by the Government and this represents the Nation's interest in what happens to its basic resources.

Payment will be made for performance of recommended practices at approved rates to the extent of the individual farm allowance and available funds. Developed under the provisions of the Soil Conservation and Domestic Allotment Act, the program is designed to meet local conservation needs.

Information contained herein outlines the general provisions of the 1951 Agricultural Conservation Program for Hawaii and specifications and rates of payment for practices.

CONTROL OF FUNDS

- Sec.
705.1 Maximum farm payment.
705.2 Adjustments.
705.3 Allocation.

APPROVAL OF CONSERVATION PRACTICES

- Sec.
705.6 Basis for approval of practices.
705.7 Adaptation of practices and rates of assistance.
705.8 Pooling agreements.
705.9 Prior notice to State Office.

CONSERVATION PRACTICES AND MAXIMUM RATES OF ASSISTANCE

- 705.10 Conservation practices and maximum rates of assistance.
705.11 Practice 1: Constructing continuous terraces to control the flow of water on sloping land.
705.12 Practice 2: Constructing field diversion terraces or ditches for diverting or collecting water to control erosion or for impounding purposes.
705.13 Practice 3: Constructing individual terraces around coffee trees.
705.14 Practice 4: Establishing a protective sod lining in waterways.
705.15 Practice 5: Constructing outlets for water channels or building flumes or chutes to dispose of water without gullying.
705.16 Practice 6: Building erosion control dams or stone or vegetative barriers to prevent or heal the gullying of farm land and reduce runoff of water.
705.17 Practice 7: Constructing permanent riprap of stone to control erosion of stream banks, gullies, dam faces, or water courses.
705.18 Practice 8: Contour farming of intertilled crops.
705.19 Practice 9: Listing or chiseling fallowed cropland on the contour or emergency listing at right angles to prevailing winds for control of wind erosion when not a part of the seeding operation.
705.20 Practice 10: Planting orchards on the contour.
705.21 Practice 11: Maintaining a permanent vegetative cover in nonteraced orchards on slopes greater than 2 percent to prevent erosion.
705.22 Practice 12: Planting leguminous crops for green manure or cover.
705.23 Practice 13: Planting adapted nonlegumes for green manure or cover.
705.24 Practice 14: Small grains for green manure or cover.
705.25 Practice 15: Organic manuring of fields with farm compost or dehydrated peat moss.
705.26 Practice 16: Seeding or planting adapted grasses, legumes, or other forage plants for establishing or improving permanent pastures.
705.27 Practice 17: Applying ground limestone or its equivalent on all islands in the Territory where soil analysis shows the need.
705.28 Practice 18: Applying potash or phosphate.
705.29 Practice 19: Minor elements.
705.30 Practice 20: Clearing land to permit conservation of other land in the farm.
705.31 Practice 21: Clearing new land for permanent pasture.
705.32 Practice 22: Controlling weeds in established pasture or range land by grubbing out, cutting down by hand, or poisoning of undesirable plants.
705.33 Practice 23: Applying sugarcane mill refuse to canefields harvested or started in fallow during the program year.
705.34 Practice 24: Retaining or applying a mulch of coarsely shredded or crushed pineapple plants on pineapple fields.
705.35 Practice 25: Applying coffee pulp and/or husks around coffee trees.

Sec.

- 705.36 Practice 26: Deferred grazing.
705.37 Practice 27: Reseeding or replanting of depleted range land which is unprepared.
705.38 Practice 28: Establishing for seed production an acreage of range and pasture grasses or legumes.
705.39 Practice 29: Construction of dams, pits or ponds for livestock water, including the enlargement of inadequate structures.
705.40 Practice 30: Installation of pipe lines for livestock water.
705.41 Practice 31: Construction of permanent artificial watersheds and/or storage tanks for accumulating livestock water.
705.42 Practice 32: Construction of permanent fences to obtain better distribution of grazing on range or pasture land.
705.43 Practice 33: Furrowing, chiseling, ripping, scarifying or listing non-crop grazing land to retard runoff and improve water penetration.
705.44 Practice 34: Constructing or enlarging dams for irrigation water.
705.45 Practice 35: Reorganizing farm irrigation systems to conserve water and prevent erosion.
705.46 Practice 36: Construction or enlargement of open permanent farm drainage ditches.
705.47 Practice 37: Planting forest trees and shrubs on farm land for forestry purposes, windbreaks, and for erosion control.
705.48 Practice 38: Maintaining a stand of trees and shrubs in windbreaks, planted between January 1, 1946 and January 1, 1951.
705.49 Practice 39: Building temporary check dams of wire, wood or brush supplemented by vegetative cover of close-growing grasses or legumes.

PAYMENTS

- 705.56 Division of payments.
705.57 Increase in small payments.
705.58 Payments limited to \$2,500.

GENERAL PROVISIONS RELATING TO PAYMENT

- 705.61 Failure to maintain practices under previous programs.
705.62 Practices defeating purposes of programs.
705.63 Depriving others of payment.
705.64 Failure to carry out approved erosion-control measures.
705.65 Filing of false claims.
705.66 Payment computed and made without regard to claims.
705.67 Assignments.
705.68 Practices carried out with State or Federal aid.
705.69 Compliance with regulatory measures.

APPLICATION FOR PAYMENT

- 705.71 Persons eligible to file applications.
705.72 Time and manner of filing applications and information required.

APPEALS

- 705.76 Appeals.

BULLETINS, INSTRUCTIONS, AND FORMS

- 705.77 Bulletins, instructions, and forms.

DEFINITIONS

- 705.81 Definitions.

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

- 705.86 Authority.
705.87 Availability of funds.
705.88 Applicability.

AUTHORITY: §§ 705.1 to 705.88 issued under sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Inter-

pret or apply secs. 7-17, 49 Stat. 1148, as amended; Pub. Law 759, 81st Cong.; 16 U. S. C. 590g-590q.

CONTROL OF FUNDS

§ 705.1 Maximum farm payment. The State Office will determine the amount of assistance for each farm, taking into consideration the needs of other farms in the State as well as the conservation needs of the farm requesting assistance.

§ 705.2 Adjustments. If the total estimated earnings under the program exceed the total funds available for payments the assistance in each case will be reduced equitably.

§ 705.3 Allocation. The amount of funds available for conservation practices under this program is \$219,000. This amount does not include the amount set aside for administrative expenses and the amount required for size-of-payment adjustments in § 705.57.

APPROVAL OF CONSERVATION PRACTICES

§ 705.6 Basis for approval of practices. Practices to be approved will include only those which maintain or increase soil fertility; control and prevent soil erosion caused by wind or water; encourage conservation and better agricultural use of water; or conserve and increase range and pasture forage, and which will not be carried out in desired volume on the basis of relative conservation needs unless payments are made therefor.

§ 705.7 Adaptation of practices and rates of assistance. In order to encourage the performance of practices which are needed most, the State Office may designate from the practices listed in this subpart those practices which will be applicable on designated groups of farms.

§ 705.8 Pooling agreements. Producers in any local area may agree in writing, with approval of the State Office, to perform designated amounts of practices which the State Office determines are necessary to conserve or improve the agricultural resources of the community. For purposes of payment, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms of the producers who performed the practice.

§ 705.9 Prior notice to State Office. The State Office requires notification in advance, of the farmer's intentions to participate in the 1951 program. Intentions may be filed on Form ACP-201-Hawaii (50), by letter to the Honolulu or Hilo office of the Production and Marketing Administration, or by telephone or personal contact with authorized PMA farm checkers. Information should include a description of the practice(s) and extent of the performance anticipated.

CONSERVATION PRACTICES AND MAXIMUM RATES OF ASSISTANCE

§ 705.10 Conservation practices and maximum rates of assistance. Payment will be made at the rates specified and within the limitations set forth in this subpart for carrying out during the pe-

riod from January 1, 1951, to December 31, 1951, inclusive, the conservation practices included in §§ 705.11 to 705.49 which are approved for a farm, except that farmers, who before December 31, 1950, (a) complete all practices for which they will make claim for payment under the 1950 program, or (b) have carried out practices to the maximum extent of their allowance under the 1950 program, may enroll and perform practices under the 1951 program any time after September 30, 1950. No payment will be made under the 1951 program for any part of a practice carried out for payment under the 1950 program.

§ 705.11 Practice 1: Constructing continuous terraces to control the flow of water on sloping land. Credit will be allowed, provided the terrace is properly laid out and constructed in accordance with detailed specifications to be provided by the State Office, adequately protected against overflowing or washing, and supplied with outlets and waterways for the discharge of accumulated water. If the land terraced is planted to clean-tilled crops, the crop rows must follow contour lines on all slopes greater than 6 percent and, as nearly as practicable, on slopes of 6 percent or less. Only bench-type terraces will be recognized as effective on land of 20 percent or more slope.

Maximum assistance. (a) \$2 per 100 linear feet in clear soil.

(b) \$4 per 100 linear feet in very rocky soil or exposed rocky substratum.

§ 705.12 Practice 2: Constructing field diversion terraces or ditches for diverting or collecting water to control erosion or for impounding purposes. Channels exceeding 2 percent in grade must be protected against erosion damage by adequate sod or other lining. The amount of material moved shall be that which is determined to lie in the terrace ridge or berm and above the normal ground level.

Maximum assistance. \$0.12 per cubic yard of material moved.

§ 705.13 Practice 3: Constructing individual terraces around coffee trees. Terrace ridge should be not less than 5 feet long and high enough to provide catchment capacity of not less than 3 cubic feet. Terrace ridge should be of firmly packed soil or rock set in soil.

Maximum assistance. \$5 per 100 terraces.

§ 705.14 Practice 4: Establishing a protective sod lining in waterways. This practice will be applicable to waterways built or reshaped in the program year and used for removing excess water from farm land. Satisfactory sod lining must be established before credit may be given for this practice.

Maximum assistance. (a) \$0.75 per 1,000 square feet of surface established by shaping and seeding, or sodding.

(b) 70 percent of the cost of moving earth, not to exceed \$0.12 per cubic yard of soil moved in reshaping old waterways with earth moving equipment.

§ 705.15 Practice 5: Constructing outlets for water channels or building flumes or chutes to dispose of water without gullying.

Maximum assistance. (a) 50 percent of the average cost of material used, other than concrete and rubble masonry.

(b) 50 percent of the average cost of concrete used, but not in excess of \$10 per cubic yard.

(c) 50 percent of the average cost of rubble masonry used, but not in excess of \$6 per cubic yard.

(d) \$0.50 per square yard of exposed surface of log dams.

(e) \$0.50 per square yard of exposed surface of wire-bound mulch.

(f) \$0.15 per square yard of exposed surface of wire dams.

§ 705.16 Practice 6: Building erosion control dams or stone or vegetative barriers to prevent or heal the gullying of farm land and reduce run-off of water.

Maximum assistance. (a) 70 percent of the average cost of moving earth but not in excess of \$0.12 per cubic yard of earth moved in the construction of the dams, wings and walls.

(b) 50 percent of the average cost of concrete used, but not to exceed \$10 per cubic yard.

(c) 50 percent of the average cost of rubble masonry used, but not in excess of \$6 per cubic yard.

(d) 50 percent of the average cost of pipe delivered to the farm.

(e) \$1.50 per cubic yard of rock used, for rock or rock and brush dams.

(f) 80 percent of the cost of constructing stone barriers for diverting and spreading surface run-off.

(g) \$0.25 per 100 linear feet for planting single line vegetative barriers to impede the flow of surface run-off.

(h) \$1.50 per 1,000 square feet for planting suitable permanent massed vegetative barriers.

§ 705.17 Practice 7: Constructing permanent riprap of stone to control erosion of stream banks, gullies, dam faces, or water courses.

Maximum assistance. (a) \$0.50 per square yard of exposed riprap surface, or

(b) \$1.50 per cubic yard of riprap material.

§ 705.18 Practice 8: Contour farming of intertilled crops. Credit will be given for farming intertilled crops planted during the program year on the contour on land of 2 percent or more slope. Credit will not be given for this practice on land under furrow irrigation or on land of 6 percent or more slope, unless adequate ditching or terracing protection is provided in accordance with specifications in this subpart covering such practices. If the land is not promptly put into another crop, the crop residue must be left standing, a cover crop established, or protective tillage operations (contour plowing, harrowing, furrowing, or subsoiling) carried out on the land.

Maximum assistance. (a) \$3 per acre per year where all cultural operations (plowing, harrowing, planting, and cultivating) are on the contour or where cultivation space between contour planted rows is furrowed to a depth not less than 6 inches.

(b) \$2 per acre per year where only planting and cultivating are on the contour.

§ 705.19 Practice 9: Listing or chiseling fallowed cropland on the contour or emergency listing at right angles to prevailing winds for control of wind erosion when not a part of the seeding operation. Furrows must be not less than 8 inches deep and 12 inches across at the

top and spaced at not more than 10 feet apart.

Maximum assistance, \$1 per acre.

§ 705.20 *Practice 10: Planting orchards on the contour.* Credit will be given for planting orchards on the contour on land having more than 2 percent slope. Trees must be lined up on the level or on a grade suitable for continuous terrace construction.

Maximum assistance, \$7.50 per acre.

§ 705.21 *Practice 11: Maintaining a permanent vegetative cover in nonterraced orchards on slopes greater than 2 percent to prevent erosion.* The cover must be mowed at least once during the year and residue left on the land, or grazed, but not to the extent of endangering the cover.

Maximum assistance, \$1 per acre.

§ 705.22 *Practice 12: Planting leguminous crops for green manure or cover.* In order to qualify, a good stand and a good growth of the leguminous crops must be grown and left on the land or turned under during the program year. Receipts or invoices showing purchase of seed, or records of collecting, will be required by inspectors as evidence of seed used. Minimum rates of seeding should be the same as shown in § 705.26 (practice 16). Payments will not be made for seed used in excess of two times a prescribed minimum rate per acre. In case of mixed seeding with acceptable nonlegumes (see §§ 705.23 and 705.24 (practices 13 and 14)) the ratio of one-third of the required poundage of legume seed for unmixed plantings to two-thirds of the required poundage of nonlegume seed for unmixed plantings shall provide the basis for determining eligibility and payment.

Maximum assistance:	Cents per pound
(a) Pigeon peas.....	15
(b) Velvetbeans.....	15
(c) Field beans.....	15
(d) Purple vetch.....	20
(e) Clover.....	35
(f) Kudzu.....	25
(g) <i>Crotalaria juncea</i>	25
(h) <i>Crotalaria spectabilis</i>	25

§ 705.23. *Practice 13: Planting adapted nonlegumes for green manure or cover.* Para grass (*Panicum purpurascens*), molasses grass, Rhodes grass, feather finger grass and other nonlegumes determined by the State Office as suitable for this purpose are eligible for payment. In order to qualify, a good stand and a good growth must be secured during the program year and be left on the land or turned under. Acreage harvested for seed or hay is not eligible for assistance. Receipts or invoices showing purchase of seed, or records of collecting, will be required by inspectors as evidence of seed used. In case of mixed seeding with acceptable legumes, see § 705.22 (practice 12) for ratio specifications, and § 705.26 (practice 16) for nonlegume seeding rates.

Maximum assistance, 50 percent of the cost of seed or \$4 per acre, whichever is the lesser.

§ 705.24 *Practice 14: Small grains for green manure or cover.* A good stand

and good growth must be obtained and left on the land or turned under. Acres harvested for hay or grain are not eligible for assistance. Volunteer stands will not qualify for assistance. In case of mixed seeding with acceptable legumes, see § 705.22 (practice 12) for ratio specifications. Minimum seeding rates per acre by varieties are: Barley (bearded), 75 pounds per acre; oats, 60 pounds per acre. Payment will not be made for seed used in excess of two times the prescribed minimum rate per acre.

Maximum assistance, 50 percent of the cost of seed at the farm.

§ 705.25 *Practice 15: Organic manuring of fields with farm compost or dehydrated peat moss.* Farm compost must consist of agricultural waste material properly mixed with lime, phosphate, and nitrogenous activators and protected against leaching. In order to qualify compost volume must be determined by county agent or PMA farm checker prior to spreading. In order for dehydrated peat moss to qualify the farmer must provide analysis of the product and receipted bills showing amounts purchased and price. Analysis must show not less than 75 percent organic matter on the dry basis and a water absorbing ratio of not less than 7:1.

Maximum assistance, (a) Farm compost—\$2 per cubic yard in the composting pit or pile.

(b) Dehydrated peat moss—50 percent of the cost at warehouse but not in excess of \$25 per acre.

§ 705.26 *Practice 16: Seeding or planting adapted grasses, legumes, or other forage plants for establishing or improving permanent pastures.* The seed must be well distributed over the area sown to insure a good stand at maturity. Any of the following protective crops or any other locally adapted crops approved by the State Office may be used but must be seeded at not less than the following minimum seeding rates per acre:

	Pounds
<i>Crotalaria</i>	10
Vetch.....	50
Lupines.....	30
Pigeon peas.....	30
<i>Desmanthus</i>	5
Canary grass.....	10
Carpet grass.....	10
Clovers.....	10
Guinea grass.....	10
Molasses grass.....	10
<i>Paspalum dilatatum</i> (Dallis).....	10
Rhodes grass.....	10
Bromegrass.....	15
Australian bluegrass.....	15
Orchard grass.....	15
Ryegrass.....	15
Mesquite grass.....	15
Kudzu.....	5

In order to meet the minimum requirement when slips or stools of grasses are planted, slips are to be planted in continuous rows not more than 5 feet apart, while stools are to be planted not more than 4 feet in each direction. Any of the following grasses may be planted as slips or stools at not less than the following minimum rates per acre:

	Pounds
Bermuda.....	250
Bermuda (giant).....	250
Kikuyu grass.....	500
Napier (elephant) grass.....	1,000
Para grass (<i>Panicum</i>).....	2,000
Guinea grass crowns.....	600

Maximum assistance, For prepared land which is not used as cropland, 80 percent of the average cost of seed, slips, or stools, but not in excess of \$10 per acre planted.

§ 705.27 *Practice 17: Applying ground limestone or its equivalent on all islands in the Territory where soil analysis shows the need.* Lime material must be fine enough to pass through a 20-mesh screen and must be evenly applied to the land. Receipts or invoices showing the purchase of lime, properly dated and signed by the vendor will be required as evidence by the farm inspector at the time of inspection.

Maximum assistance, 60 percent of the average cost delivered to the farm of material containing at least 80 percent calcium carbonate equivalent.

§ 705.28 *Practice 18: Applying potash or phosphate.* Payment will be made for applying potash or phosphate to grasses or legumes (excluding small grain, vegetable or truck crops for sale, all peanuts, Sudan grass, and sorghums), or to green manure or cover crops in orchards (excluding vegetable or truck crops for sale, all peanuts, Sudan grass, and sorghums). Payment will be made only for the application of phosphate (P_2O_5) and potash (K_2O) separately or in mixed form, and for not more than 100 pounds of each ingredient per acre. Application of phosphate or potash to the soil may be made to a growing crop or at the time of seeding a new crop. Application must be made at a time so that the eligible crop will receive the principal benefit of the material. Receipts or invoices showing the purchase and analysis of the fertilizer used, properly dated and signed by the vendor, will be required as evidence by the farm inspector at the time of inspection.

Maximum assistance, (a) Potash—\$3.75 per 100 pounds of available K_2O .

(b) Superphosphate or Ammo-phos (16-20-0 analysis)—\$7.20 per 100 pounds of available P_2O_5 .

(c) Ammo-phos (11-48-0 analysis)—\$6.55 per 100 pounds of available P_2O_5 .

(d) Raw rock phosphate—\$4.33 per 100 pounds of P_2O_5 content.

§ 705.29 *Practice 19: Minor elements.* Materials used as insecticides are not eligible. In the case of mixtures, payments shall be calculated on the basis of the average cost of an equivalent quantity of the elements in a common commercial form.

Maximum assistance, 60 percent of the average cost at dealer's warehouse.

§ 705.30 *Practice 20: Clearing land to permit conservation of other land in the farm.* This practice is applicable only where clearing is necessary for the adoption, or not less than equal acreage, of a better soil conserving cropping system, reforestation, or retirement from cultivation of severely eroded lands. No payment will be made for clearing a stand of merchantable timber. Records of labor and equipment used in the

clearing operation will be required as evidence of cost.

Maximum assistance. 50 percent of the cost of the clearing operation, but not in excess of \$10 per acre cleared.

§ 705.31 Practice 21: Clearing new land for permanent pasture. This practice is applicable only to land which has undergone no clearing operation within the past 25 years while under control of the present operator; or within 10 years in the case of a recent change in ownership or tenancy. This practice is applicable only where clearing is necessary for the establishment of perennial legumes and grasses. Eligible perennial legumes and grasses must be established as soon as practicable. No payment will be made for clearing a stand of merchantable timber. Records of labor and equipment used in the clearing operation will be required as evidence of cost.

Maximum assistance. 50 percent of the cost of the clearing operation, but not in excess of \$10 per acre cleared.

§ 705.32 Practice 22: Controlling weeds in established pasture or range land by grubbing out, cutting down by hand, or poisoning of undesirable plants. Payment will be made only once for performing this practice on the same land during 1951 regardless of the number of times weeds are removed during the year. This practice must be carried out in combination with such seeding, liming, and fertilizing measures as are required for the development or maintenance of a good pasture cover on the acreage treated.

Maximum assistance. (a) \$0.50 per acre per year for grubbing or cutting by hand.

(b) 50 percent of the average cost of State Office approved chemicals not to exceed \$1 per acre.

§ 705.33 Practice 23: Applying sugarcane mill refuse to canefields harvested or started in fallow during the program year. Eligible materials will include separately or in any combination, cane leaf trash, soil washings, bagasse, and filter cake. Records of volume transported and identity as well as areas of fields treated will be required by inspectors before determining payments.

Maximum assistance. 50 percent of the hauling expense, but not to exceed \$15 per acre treated.

§ 705.34 Practice 24: Retaining or applying a mulch of coarsely shredded or crushed pineapple plants on pineapple fields. The layer of shredded plants must be not less than 4 inches thick at the outset. Applicable only to fields in crop or in preparation for planting. Assistance for this practice on any field will be limited to once during the crop cycle.

Maximum assistance. (a) \$5 per acre for pineapple trash mulch in unbroken blanket. (b) \$2.50 per acre for pineapple trash mulch in strips alternating with paper mulch.

§ 705.35 Practice 25: Applying coffee pulp and/or husks around coffee trees. When cherry coffee is pulped on the farm on which the pulp is used, sales slips or similar records of parchment coffee sold

should be retained for presentation to the farm inspector at the time of inspection. Such sales slips or other records should contain the number of bags of parchment coffee sold, the date of sale, and the purchaser's signature. Payment will be made for not more than 5 tons of pulp (unfermented weight) and/or husks applied per acre. (Off-farm coffee pulp and/or husks are acceptable on presentation of satisfactory evidence.)

Maximum assistance. (a) \$1 per ton for farm produced pulp.

(b) \$2 per ton for mill produced pulp requiring truck hauling.

§ 705.36 Practice 26: Deferred grazing. Payment will not be made on more than 25 percent of the grazing land in the unit, except that the State Office with approval of the ACP Branch may waive the percentage limitation for any local area where deferment of a larger area is necessary to conserve range resources, nor on any part of the deferred area which is cut for hay. For payment purposes, the deferment period may not be less than 4 months. The following conditions must be observed in order to qualify for payment:

(a) The land on which the practice is carried out must be kept entirely free from grazing during the period.

(b) The range land in the farm must not be pastured to such extent as to injure the forage, tree growth, or watershed.

(c) This practice shall not be applicable to land which normally is not used for grazing during the period in which livestock is removed.

(d) Rested area must have a vegetative cover of forage crop acceptable to the State Office.

Maximum assistance. \$0.03 per acre per month for the acreage deferred.

§ 705.37 Practice 27: Reseeding or replanting of depleted range land which is unprepared. The seed or plants must be well distributed over the area treated to insure a good stand at maturity. No assistance will be given if it is determined that the area seeded is overgrazed. Protective crops and eligible seeding rates are those listed in § 705.26 (practice 16).

Maximum assistance. 50 percent of the average cost at the farm of the seed or planting material used, but not in excess of \$10.00 per acre.

§ 705.38 Practice 28: Establishing for seed production an acreage of range and pasture grasses or legumes. The following species will qualify for credit:

Kalmi clover (*Desmodium canum*).
Spanish clover (*Desmodium uncinatum*).
Crotalaria juncea.
Purple vetch.
Pigeon peas.
Canary grass.
Clovers.
Paspalum dilatatum.
Tropical kudzu (*Pueraria phaseoloides*).
Feather fingergrass (*Chloris virgata*).
Rhodes grass.
Bromegrass.
Australian bluegrass.
Orchard grass.
Ryegrass.
Mesquite grass.

Maximum assistance. 50 percent of the cost of production, but not in excess of \$25 per acre.

§ 705.39 Practice 29: Construction of dams, pits or ponds for livestock water, including the enlargement of inadequate structures. The development must contribute to a better distribution of grazing or better pasture management. No assistance will be given if the area to be served by the development is overgrazed. No assistance will be given for cleaning or maintaining an existing structure. Receipts showing purchase of material used in construction will be required by inspectors as evidence of cost.

Maximum assistance. (a) 70 percent of the average cost of earth moving, but not in excess of \$0.12 per cubic yard of material moved.

(b) 50 percent of the cost of concrete used, but not in excess of \$10 per cubic yard.

(c) 50 percent of the cost of rubble masonry used, but not in excess of \$6 per cubic yard.

(d) 50 percent of the cost of fencing materials, pipe, and seeding or sodding the dam and filter strips.

§ 705.40 Practice 30: Installation of pipe lines for livestock water. The project must contribute to a better distribution of grazing. No assistance will be given if the area to be served by the development is overgrazed. Receipts showing purchase of pipe used will be required to determine cost.

Maximum assistance. 50 percent of the average cost of pipe at the farm, except that the payment for pipe in excess of 2 inches in diameter may not exceed the payment which may be made for 2-inch pipe.

§ 705.41 Practice 31: Construction of permanent artificial watersheds and/or storage tanks for accumulating livestock water. The project must contribute to a better distribution of grazing. No assistance will be given if the area to be served by the development is overgrazed. No payment will be made if part of the water impounded or supplied is used for irrigation or domestic purposes. Receipts showing purchase of materials used will be required to determine cost.

Maximum assistance. (a) 50 percent of the cost of material used, other than concrete and rubble masonry.

(b) 50 percent of the cost of concrete used, but not in excess of \$10 per cubic yard.

(c) 50 percent of the cost of rubble masonry used, but not in excess of \$6 per cubic yard.

§ 705.42 Practice 32: Construction of permanent fences to obtain better distribution of grazing on range or pasture land. No payment may be made for the maintenance of existing fences or for construction of boundary fences. Receipts showing purchase of materials will be required to determine cost.

Maximum assistance. (a) 50 percent of the average cost at the farm of posts, wire, poles, lumber, staples, or other similar fencing materials used.

(b) 5 cents per linear foot of rock wall, minimum dimensions of which shall be: Height, 4 feet; base width, 30 inches; and top width, 18 inches.

§ 705.43 Practice 33: Furrowing, chiseling, ripping, scarifying or listing noncrop grazing land to retard run-off and improve water penetration. The

operations must be as nearly as practicable on the contour.

Maximum assistance. \$0.25 per 1,000 linear feet.

§ 705.44 *Practice 34: Constructing or enlarging dams for irrigation water.* No assistance will be given for material moved in cleaning or maintaining a reservoir.

Maximum assistance. (a) 70 percent of the average cost of earth moving, but not in excess of \$0.12 per cubic yard of material moved.

(b) 50 percent of the cost of concrete used, but not in excess of \$10 per cubic yard.

(c) 50 percent of the cost of rubble masonry used, but not in excess of \$6 per cubic yard.

(d) 50 percent of the average cost of pipe and outlet gates.

§ 705.45 *Practice 35: Reorganizing farm irrigation systems to conserve water and prevent erosion.* The reorganization must be carried out in accordance with a written plan approved by the State Office.

Maximum assistance. (a) 70 percent of the average cost of earth moving, but not in excess of \$0.12 per cubic yard of material moved in the construction or enlargement of permanent ditches, dikes, or laterals. No assistance will be given for cleaning a ditch.

(b) 50 percent of the average cost of approved material used in lining ditches or reservoirs, but not in excess of \$10 per cubic yard of concrete or \$6 per cubic yard of rubble masonry.

(c) 50 percent of the average cost of material used in constructing or installing siphons, flumes, drop boxes or chutes, weirs, diversion gates, and pipe, but not in excess of \$10 per cubic yard of concrete or \$6 per cubic yard of rubble masonry. No assistance will be given for repairs or replacements of existing structures.

(d) 50 percent of the average cost of pipe used in the installation of permanently located main lines and standpipes for overhead irrigation. No assistance will be given for repairs or replacements of existing structures, or for the installation of laterals.

§ 705.46 *Practice 36: Construction or enlargement of open permanent farm drainage ditches.* No payment will be made for material moved in cleaning or maintaining a ditch.

Maximum assistance. 70 percent of the average cost of earth moving, but not in excess of \$0.12 per cubic yard of material moved.

§ 705.47 *Practice 37: Planting forest trees and shrubs on farm land for forestry purposes, windbreaks, and for erosion control.* Planting must be protected from fire and grazing.

Maximum assistance. (a) \$1 per 100 trees or shrubs planted, or

(b) \$7.50 per acre, or

(c) 50 percent of the cost of trees or shrubs planted.

§ 705.48 *Practice 38: Maintaining a stand of trees and shrubs in windbreaks, planted between January 1, 1946 and January 1, 1951.* Trees and shrubs must be of types suited to windbreak purposes. Plants must be protected from fire and grazing.

Maximum assistance. \$1 per 100 trees or shrubs replanted, but not in excess of \$3 per acre.

§ 705.49 *Practice 39: Building temporary check dams of wire, wood or brush*

supplemented by vegetative cover of close-growing grasses or legumes.

Maximum assistance. \$0.05 per linear foot of dam crest.

PAYMENTS

§ 705.56 *Division of payments.* (a) *Conservation practice payments.* The payment earned in carrying out practices shall be paid to the producer who carried out the practices. If more than one producer contributed to the carrying out of such practices, the payment shall be divided in the proportion that the State Office determines the producers contributed to the carrying out of the practices. In making this determination, the State Office shall take into consideration the value of the labor, equipment, or material contributed by each producer toward the carrying out of each practice on a particular acreage, assuming that each contributed equally, unless it is established to the satisfaction of the State Office that their respective contributions thereto were not in equal proportion. The furnishing of land will not be considered as a contribution to the carrying out of any practice.

(b) *Death, incompetency, or disappearance of producer.* In the case of death, incompetency, or disappearance of any producer, his share of the payment shall be paid to his successor, determined in accordance with the provisions of Part 716 of this chapter (ACP-122).

§ 705.57 *Increase in small payments.* The payment computed for any person with respect to any farm shall be increased as follows:

(a) Any payment amounting to \$0.71 or less shall be increased to \$1.

(b) Any payment amounting to more than \$0.71 but less than \$1 shall be increased by 40 percent.

(c) Any payment amounting to \$1 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
\$1 to \$1.99	\$0.40	\$32 to \$32.99	\$10.40
\$2 to \$2.99	.80	\$33 to \$33.99	10.60
\$3 to \$3.99	1.20	\$34 to \$34.99	10.80
\$4 to \$4.99	1.60	\$35 to \$35.99	11.00
\$5 to \$5.99	2.00	\$36 to \$36.99	11.20
\$6 to \$6.99	2.40	\$37 to \$37.99	11.40
\$7 to \$7.99	2.80	\$38 to \$38.99	11.60
\$8 to \$8.99	3.20	\$39 to \$39.99	11.80
\$9 to \$9.99	3.60	\$40 to \$40.99	12.00
\$10 to \$10.99	4.00	\$41 to \$41.99	12.10
\$11 to \$11.99	4.40	\$42 to \$42.99	12.20
\$12 to \$12.99	4.80	\$43 to \$43.99	12.30
\$13 to \$13.99	5.20	\$44 to \$44.99	12.40
\$14 to \$14.99	5.60	\$45 to \$45.99	12.50
\$15 to \$15.99	6.00	\$46 to \$46.99	12.60
\$16 to \$16.99	6.40	\$47 to \$47.99	12.70
\$17 to \$17.99	6.80	\$48 to \$48.99	12.80
\$18 to \$18.99	7.20	\$49 to \$49.99	12.90
\$19 to \$19.99	7.60	\$50 to \$50.99	13.00
\$20 to \$20.99	8.00	\$51 to \$51.99	13.10
\$21 to \$21.99	8.40	\$52 to \$52.99	13.20
\$22 to \$22.99	8.80	\$53 to \$53.99	13.30
\$23 to \$23.99	9.20	\$54 to \$54.99	13.40
\$24 to \$24.99	9.60	\$55 to \$55.99	13.50
\$25 to \$25.99	10.00	\$56 to \$56.99	13.60
\$26 to \$26.99	10.40	\$57 to \$57.99	13.70
\$27 to \$27.99	10.80	\$58 to \$58.99	13.80
\$28 to \$28.99	11.20	\$59 to \$59.99	13.90
\$29 to \$29.99	11.60	\$60 to \$199.99	14.00
\$30 to \$30.99	12.00		(1)
\$31 to \$31.99	12.40	\$200 and over	(2)

¹ Increase to \$200.
² No increase.

§ 705.58 *Payments limited to \$2,500.* The total of all payments made in connection with the 1951 program to any person with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, Puerto Rico, and the Virgin Islands) shall not exceed the sum of \$2,500. All or any part of any payment which has been or otherwise would be made to any person under the 1951 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device designed to evade, or which has the effect of evading, the provisions of this section.

GENERAL PROVISIONS RELATING TO PAYMENT

§ 705.61 *Failure to maintain practices under previous programs.* If the State Office determines that any conservation practice carried out under previous agricultural conservation programs is not maintained in accordance with good farming practices, or the effectiveness of any such practice is destroyed during the 1951 program year, a deduction shall be made for the extent of the practice destroyed or not maintained. The deduction rate shall be the 1951 practice rate or, if the practice is not offered in 1951, the practice rate in effect during the year the practice was performed. The deduction shall be made from the payment of the person responsible for destroying or not maintaining the practice after the payment has been increased in accordance with the provisions of § 705.57.

§ 705.62 *Practices defeating purposes of programs.* If the State Office finds that any producer has adopted or participated in any practice which tends to defeat the purpose of the 1951 or previous programs, it may withhold, or require to be refunded, all or any part of any payment which has been or would be computed for such person.

§ 705.63 *Depriving others of payment.* If the State Office finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of any payment under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the amount of any payment which has been or would otherwise be made to him in connection with the 1951 program.

§ 705.64 *Failure to carry out approved erosion-control measures.* Payment will not be made to any person with respect to any farm which he owns or operates in a county, if the county committee finds that he has been negligent and careless in his farming operations by failing to carry out approved erosion-control measures on land under his control to the extent that any part of such land has become an erosion hazard during the 1951 program year to other land in the community.

§ 705.65 *Filing of false claims.* If the State Office finds that any producer has knowingly filed claim for payment under the program for practices not carried out, or for practices carried out in

such a manner that they do not meet the required specifications therefor, such person shall not be eligible to receive any payment under the program and shall refund all payments that may have been made to him under the program. The withholding or refunding of payments will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 705.66 *Payment computed and made without regard to claims.* Any payment or share of payment shall be computed and made without regard to questions of title under State law; without deduction of claims for advances (except as provided in § 705.67 and except for indebtedness to the United States subject to set-off under orders issued by the Secretary (Part 718 of this chapter)); and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 705.67 *Assignments.* Any person who may be entitled to any payment in connection with the 1951 program may assign his payment, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1951. No assignment will be recognized unless it is made in writing on Form ACP-69 and in accordance with the instructions in ACP-70-Insular Region. These forms may be obtained from the State Office or from any office of the Agricultural Extension Service.

§ 705.68 *Practices carried out with State or Federal aid.* The assistance for any practice shall not be reduced because it is carried out with materials or services furnished by the ACP Branch or by any agency of a State to another agency of the same State, or with technical advisory services furnished by a State or Federal agency. In other cases of State or Federal aid, the total assistance for any practice performed shall be reduced for purposes of payment by the value of the aid, as determined by the State Office. Materials or services furnished or used by a State or Federal agency for the performance of practices on its land shall not be regarded as State or Federal aid for the purposes of this section.

§ 705.69 *Compliance with regulatory measures.* Producers who carry out conservation practices for assistance under the 1951 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance of the practices in keeping with applicable laws. The producer who receives assistance for the practice shall be responsible to the Federal Government for any losses it may sustain because the producer infringes on the rights of others, or fails to comply with applicable laws.

APPLICATION FOR PAYMENT

§ 705.71 *Persons eligible to file applications.* An application for payment with respect to a farm may be made by any producer who is entitled to share in the payment determined for the farm.

§ 705.72 *Time and manner of filing applications and information required.*

(a) Payment will be made only upon application submitted on the prescribed form to the State Office. Payment may be withheld from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another. Any application for payment may be rejected if it is not submitted to the State Office by May 1, 1952. At least 2 weeks' notice to the public shall be given of the expiration of any time limit established for filing other prescribed forms or required information, and any time limit fixed shall afford a full and fair opportunity to those eligible to file the form or information within the period prescribed. Such notice shall be given by making copies available to the press.

(b) Any farmer wishing to apply for payment who has not been contacted by the State Office should communicate with the Production and Marketing Administration, 303 Dillingham Building, Honolulu, T. H., 140 Federal Building, Hilo, Hawaii, T. H., or any office of the Agricultural Extension Service before May 1, 1952.

(c) If an application for a farm is filed within the time prescribed, any producer on the farm who did not sign the application may subsequently apply for his share of the payment, provided he does so on or before December 31, 1952.

APPEALS

§ 705.76 *Appeals.* Any producer may, within 15 days after notice thereof is forwarded to or made available to him, request the State Office in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his payment with respect to the farm. The State Office shall notify him of its decision in writing within 30 days after receipt of written request for reconsideration. If the producer is dissatisfied with the decision of the State Office, he may, within 15 days after the decision is forwarded to or made available to him, request the Director, ACP Branch, to review the decision of the State Office. Written notice of any decision rendered under this section by the State Office shall also be issued to each other producer on the farm who may be adversely affected by the decision.

BULLETINS, INSTRUCTIONS, AND FORMS

§ 705.77 *Bulletins, instructions, and forms.* The ACP Branch is authorized to make determinations and to prepare and issue bulletins, instructions, and forms containing detailed information with respect to the 1951 program, and forms will be available in the State Office. Requests for information concerning the Agricultural Conservation Program, as well as inquiries of any other nature with respect to the program may be directed to the Production and Marketing Administration, 303 Dillingham Building, Honolulu, T. H., or the Production and Marketing Administration, Room 140, Federal Building, Hilo, Hawaii, T. H.

DEFINITIONS

§ 705.81 *Definitions.* For the purposes of the 1951 program:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Director" means the Director of the Agricultural Conservation Programs Branch, Production and Marketing Administration.

(c) "ACP Branch" means the Agricultural Conservation Programs Branch of the Production and Marketing Administration.

(d) "State" means the Territory of Hawaii.

(e) "State Office" means the office of the Production and Marketing Administration in Honolulu, Territory of Hawaii.

(f) "Technical Committee" means the group of agricultural technicians selected by the State Office to advise the State Office in the selection and development of conservation practices for the Agricultural Conservation Program.

(g) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, and, wherever applicable, a State, Territory, or Possession, or a political subdivision or agency thereof.

(h) "Producer" means any person who, as landlord, tenant, or sharecropper, participates in the operation of a farm.

(i) "Farm" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also: (1) Any other adjacent or nearby farm or range land which the State Office, in accordance with instructions issued by the ACP Branch, determines is operated by the same person as part of the same unit in producing range livestock or with respect to the rotation of crops, and with workstock, farm machinery, and labor substantially separate from that for any other land; and (2) any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

(j) "Cropland" means farm land which in 1950 was tilled or was in regular crop rotation, excluding (1) bearing orchards and vineyards (except the acreage of cropland therein), (2) plowable noncrop open pasture, and (3) any land which constitutes or will constitute, if tillage is continued, a wind-erosion hazard to the community.

(k) "Orchard land" means the acreage in planted fruit trees, nut trees, coffee trees, papaya trees, banana plants, or vineyards.

(l) "Pasture land" means farm land, other than range land, on which the predominant growth is forage suitable for grazing and on which the spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

(m) "Range land" means any land which produces or can produce, forage suitable for grazing by range livestock without cultivation or general irrigation.

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

§ 705.86 *Authority.* The program is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7-17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148, 16 U. S. C. 590g-590q).

§ 705.87 *Availability of funds.* (a) The provisions of the 1951 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the making of payments herein provided is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation.

(b) The funds provided for the 1951 program will not be available for the payment of applications filed in the State Office after December 31, 1952.

§ 705.88 *Applicability.* (a) The provisions of the 1951 program contained herein are not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) grazing lands owned by the United States which were acquired or reserved for conservation purposes, or which are to be retained permanently under Government ownership, including, but not limited to, grazing lands administered by the Forest Service or the Soil Conservation Service of the United States Department of Agriculture, or by the Bureau of Land Management (including lands administered under the Taylor Grazing Act) or the Fish and Wildlife Service of the United States Department of the Interior; and (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it.

(b) The program is applicable to (1) privately owned lands; (2) lands owned by the Territory of Hawaii or a political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as Federal land banks and production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the Reconstruction Finance Corporation, the Home Owners' Loan Corporation, the Federal Farm Mortgage Corporation, the departments comprising the National Military Establishment, or by any other Government agency designated by the ACP Branch; and (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it.

Done at Washington, D. C., this 17th day of November 1950.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-10600; Filed, Nov. 22, 1950;
8:48 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Orange Reg. 345]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

Correction

In Federal Register Document 50-10524, published at page 7871 of the issue for Saturday, November 18, 1950, § 966.490 should be designated "§ 966.491".

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5715]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

WAYNE HATCHERY ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.75 *Free goods or services;* § 3.150 *Premiums or prizes;* § 3.275 *Undertakings, in general.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 3.1955 *Free goods;* § 3.2020 *Premium or premium conditions;* § 3.2090 *Undertakings, in general.* In connection with the offering for sale, sale, or distribution of baby chicks, chickens, or other poultry, in commerce, and among other things, as in order set forth, representing, directly or by implication, (1) by the use of the term "free" or "free gift offer", or any other term of similar import or meaning, or otherwise, that tableware, or any other merchandise, is given free, or without cost, or as a gratuity to customers unless such tableware or other merchandise is in truth and in fact a gift or gratuity and the recipient thereof is not required to purchase any other merchandise or perform any service inuring directly or indirectly to the benefit of the respondents; (2) that tableware or any other merchandise, offered as an inducement for the purchase of baby chicks, or other poultry, has a value in excess of the usual or customary price thereof; or, (3) that tableware, or other merchandise, will be delivered with each purchase of baby chicks, or other poultry, unless such tableware, or other merchandise, will in fact be delivered upon full compliance by the purchaser with the terms and conditions of the offer; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Wayne Hatchery et al., Docket 5715, Oct. 16, 1950]

Subpart—*Advertising falsely or misleadingly:* § 3.70 *Fictitious or misleading guarantees;* § 3.155 *Prices—Retail or selling as wholesale, jobbing, factory distributors, etc., or discounted—Savings and discounts subsidized—Terms and conditions;* § 3.200 *Sample, offer or order conformance;* § 3.260 *Terms and condi-*

tions; § 3.275 *Undertakings, in general.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 3.1980 *Guarantee, in general;* § 3.2030 *Repair or replacement guarantee;* § 3.2060 *Sample, offer or order conformance;* § 3.2080 *Terms and conditions;* § 3.2090 *Undertakings in general.* In connection with the offering for sale, sale, or distribution of baby chicks, chickens, or other poultry, in commerce, and among other things, as in order set forth, representing, directly or by implication, (1) that chicks which are dead or in bad condition upon arrival at purchasers' destination, or chicks which are lost within 30 days, or within any other period of time, after delivery to purchasers will be replaced, unless such chicks will in fact be replaced by respondents without cost to the purchasers; or (2) that their baby chicks are "guaranteed" to be alive on delivery, or to live any length of time thereafter, unless and until the nature and extent of the "Guarantee" and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; (3) that the established or regular retail prices at which their baby chicks, or other poultry, are sold or offered for sale are wholesale prices, or that purchasers will save 20 to 30 percent, or any other amount, from retail prices by buying from respondents; (4) that the terms or conditions of sale are other than what they are in fact; (5) that customers will be protected against price changes when in fact price changes occurring subsequently to the placing of orders are reflected in the prices charged; or (6) that only chicks, or other poultry, of the sex, breed, grade, or in the number ordered will be shipped, unless and until such representations are in fact true; prohibited.

(Sec. 6, 38 Stat. 722, 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Wayne Hatchery et al., Docket 5715, Oct. 16, 1950]

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages, or connections—Business methods and policies—Connections or arrangements with others—History—Plant and equipment—Reputation, success or standing—Size and extent.* In connection with the offering for sale, sale, or distribution of baby chicks, chickens, or other poultry, in commerce, and among other things, as in order set forth, representing, directly or by implication, (1) that respondents have been engaged in the chicken or hatchery business for any period of time greater than is actually the fact; (2) that they owned, operated, or had any connection with, or that they were in any manner responsible for the reputation and good will of, the Wayne Hatchery prior to the time they acquired same from the estate of the former owner; (3) that their hatchery is one of America's largest or oldest hatcheries; or, (4) that the hatching capacity of their hatchery is larger than is actually the fact; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719 as amended; 15 U. S. C. 45) [Cease and desist order, Wayne Hatchery et al., Docket 5715, Oct. 16, 1950]

In the Matter of Wayne Hatchery, a Corporation, and Martin Beldner, Individually and as an Officer of Said Corporation

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer the respondents admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Wayne Hatchery, a corporation, its officers, agents, representatives, and employees, and Martin Beldner, individually and as an officer of respondent corporation, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of baby chicks, chickens, or other poultry, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

(1) By the use of the term "free" or "free gift offer", or any other term of similar import or meaning, or otherwise, that tableware, or any other merchandise, is given free, or without cost, or as a gratuity to customers, unless such tableware, or other merchandise, is in truth and in fact a gift or gratuity and the recipient thereof is not required to purchase any other merchandise or perform any service inuring directly or indirectly to the benefit of the respondents.

(2) That tableware, or any other merchandise, offered as an inducement for the purchase of baby chicks, or other poultry, has a value in excess of the usual or customary price thereof.

(3) That tableware, or any other merchandise, will be delivered with each purchase of baby chicks, or other poultry, unless such tableware, or other merchandise, will in fact be delivered upon full compliance by the purchaser with the terms and conditions of the offer.

(4) That chicks which are dead or in bad condition upon arrival at purchasers' destination, or chicks which are lost within 30 days, or within any other period of time, after delivery to purchasers will be replaced, unless such chicks will in fact be replaced by respondents without cost to the purchasers.

(5) That their baby chicks are "guaranteed" to be alive on delivery, or to live any length of time thereafter, unless and until the nature and extent of the "guarantee" and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

(6) That the established or regular retail prices at which their baby chicks, or other poultry, are sold or offered for sale are wholesale prices, or that purchasers will save 20 to 30 percent, or any other amount, from retail prices by buying from respondents.

(7) That the terms or conditions of sale are other than what they are in fact.

(8) That customers will be protected against price changes when in fact price changes occurring subsequently to the placing of orders are reflected in the prices charged.

(9) That only chicks, or other poultry, of the sex, breed, grade, or in the number ordered will be shipped, unless and until such representations are in fact true.

(10) That they have been engaged in the chicken or hatchery business for any period of time greater than is actually the fact.

(11) That they owned, operated, or had any connection with, or that they were in any manner responsible for the reputation and good will of, the Wayne Hatchery prior to the time they acquired same from the estate of the former owner.

(12) That their hatchery is one of America's largest or oldest hatcheries.

(13) That the hatching capacity of their hatchery is larger than is actually the fact.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: October 16, 1950.

By the Commission.

[SEAL]

D. C. DANIEL,
Secretary.

[F. R. Doc. 50-10607; Filed, Nov. 22, 1950;
8:48 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 602—COOPERATION OF UNITED STATES EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in me by section 12, 48 Stat. 117, as amended; 29 U. S. C. 49k, §§ 602.1 (b) and 602.10 (b) are hereby amended to read as follows:

§ 602.1 Definitions. * * *

(b) "State" includes the several States, the District of Columbia, Hawaii, Alaska, Puerto Rico and the Virgin Islands.

§ 602.10 Organization. * * *

(b) *State director.* Each statewide system of public employment offices shall be under the supervision and direction of a state director who shall devote his full time to employment service activities which may include the supervision and direction of the following unemployment insurance activities: The taking of claims and making decisions thereon and payment of claims. The state director may also supervise such

other activities which the Director of the United States Employment Service finds, in light of special circumstances, will not impede the proper and efficient administration of the employment service program.

(Sec. 12, 48 Stat. 117, as amended; 29 U. S. C. 49k)

Signed at Washington, D. C., this 14th day of November 1950.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 50-10585; Filed, Nov. 22, 1950;
8:48 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter E—Credit to Indians

PART 21—GENERAL CREDIT TO INDIANS

INTEREST AND EDUCATIONAL LOANS

On September 21, 1950, there was published in the daily issue of the FEDERAL REGISTER notice of intention to amend §§ 21.6 and 21.16 of the regulations approved by the Secretary of the Interior December 18, 1945 and amended August 21, 1947 and June 25, 1948, which were promulgated under authority contained in the acts of June 18, 1934 (48 Stat. 986), and June 26, 1936 (49 Stat. 1967), as amended and supplemented. Interested persons were given opportunity to participate in preparing the proposed amendments by submitting their views and data or arguments in writing to Dillon S. Myer, Commissioner of Indian Affairs, Washington 25, D. C., within 30 days from the date of publication of the notice of intention in the daily issue of the FEDERAL REGISTER. No views and data or arguments having been received from interested persons, and the 30 day period for submittal thereof having expired, §§ 21.6 and 21.16 of said regulations are amended to read as herein-after indicated:

§ 21.6 *Interest.* Corporations, unincorporated tribes and bands, and credit associations shall pay two per cent interest annually on loans from the date made until paid, on the basis of 360 days per annum. Cooperative associations and individual borrowers shall be charged interest at the rate of four per cent annually, except loans made to individuals for educational purposes, which shall be governed by the provisions of § 21.16. Borrowers from Indian organizations shall pay the rate of interest specified in the governing loan agreement, but not less than two per cent.

(Secs. 10, 11, 48 Stat. 986, sec. 9, 49 Stat. 1968, 62 Stat. 211; 25 U. S. C. 470, 471, 508, 482. Interprets or applies sec. 1, 49 Stat. 1250, secs. 1-8, 49 Stat. 1967-1968; 25 U. S. C. 501-508)

§ 21.16 *Educational loans.* Loans for educational purposes may be made under the regulations in this part. The interest rate on loans by the United States shall be three per cent per annum. The rate on loans by Indian organizations

shall be not less than two percent per annum, and may not exceed the rate charged borrowers on loans for other purposes.

(Secs. 10, 11, 48 Stat. 986, sec. 9, 49 Stat. 1968, 62 Stat. 211; 25 U. S. C. 470, 471, 508, 482. Interprets or applies sec. 1, 49 Stat. 1250, secs. 1-8, 49 Stat. 1967-1968; 25 U. S. C. 501-508)

Dated: November 17, 1950.

OSCAR L. CHAPMAN,
Secretary of the Interior.

[F. R. Doc. 50-10586; Filed, Nov. 22, 1950;
8:48 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes [Regulations 10]

PART 185—WAREHOUSING OF DISTILLED SPIRITS

Correction

In Federal Register Document 50-7005, published at page 5233 of the issue for Saturday, August 12, 1950, the following changes should be made:

1. In § 185.309 (page 5261), after the phrase "5,000 barrels" in the ninth line, the phrase "less any equivalent thereof in tank or case storage" should read "including any equivalent thereof in tank or case storage capacity, or any combination of barrel, tank or case storage facilities." Section 185.509 as corrected reads as follows:

§ 185.309 *Other causes for disapproval.* The district supervisor will not approve any application for the establishment of an internal revenue bonded warehouse unless (a) the capacity of the warehouse is commensurate with the prospective needs of the area or locality in which it is situated and in any event not less than 5,000 barrels, including any equivalent thereof in tank or case storage capacity, or any combination of barrel, tank or case storage facilities, (b) the location is suitable, (c) the transportation facilities are adequate, (d) the design and construction of the warehouse are such as to insure economical supervision by Government officers, and (e) the prospective volume of spirits that will be received, stored, withdrawn, and bottled at the warehouse is sufficient to warrant the establishment of the warehouse and the expense of Government supervision: *Provided*, That these provisions shall not be applicable where the warehouse is an original warehouse to be operated by the distiller (not including lessee distillers) on or contiguous to the distillery premises, or is a second warehouse which the distiller desires to operate on premises contiguous to or near such original warehouse on account of lack of storage space in the original warehouse and the impracticability of expanding such warehouse. In any case where the warehouse has a bottling-in-bond department and the applicant is not entitled to a permit under the Federal Alcohol Administration Act, the district supervisor will, upon disapproval of

the permit application, return all copies of the qualifying documents to the applicant without action thereon or reference to the Commissioner.

(53 Stat. 331; 26 U. S. C. 2872)

2. In the ninth sentence of § 185.622 (page 5281), the word "not" in the phrase "need not be obliterated" should be deleted. Section 185.622 as corrected reads as follows:

§ 185.622 *Gauge and tarpayment.* If the spirits to be withdrawn are in packages, the storekeeper-gauger, upon receipt of the Form 179 and Form 1520, will carefully examine and supervise the weighing of each package and enter the weights on Form 1520. Where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480-185.496. When the contents of the package have been dumped into the gauging tank, the empty package, including the char and wood chips, if any, will be thoroughly rinsed: *Provided*, That if the contents of the packages dumped for bulk gauging are to be drawn from the gauging tank for shipment in as many of the original packages as may be required, the packages to be used as shipping containers need not be rinsed if a declaration to that effect has been made by the proprietor prior to the dumping of the spirits, in which event recovery of spirits by rinsing at the time of dumping for bottling or rectification will be precluded. Water of any temperature may be used to rinse the packages. The rinsings will be added to the spirits dumped from the packages into the gauging tank prior to gauging: *Provided*, That where the proprietor does not wish to add any or all of the rinse water to the spirits in the gauging tank, such rinse water must be poured on the ground or into a sewer in the presence of the storekeeper-gauger. The temperature of water used for rinsing must be marked on the packages used as shipping containers in accordance with § 185.628. Loose char and wood chips, if any, collected from packages, the contents of which have been dumped into bulk gauging tanks after rinsing must be destroyed in accordance with § 185.902 unless added to the packages which are to be used as shipping containers. The tare of any shipping container must include the weight of loose char and wood chips which are placed therein. After the packages have been dumped and rinsed all marks and brands shall be obliterated, except where the packages are to be used for the shipping of spirits dumped therefrom for gauging, in which case only the kind of cooperage, serial number of the package, the word "Filled" and the date of filling need be obliterated. The spirits in the gauging tank will be adjusted to a whole degree of proof, gauged with an official hydrometer, and the details of the gauge entered by the storekeeper-gauger on Form 1520. The storekeeper-gauger will also enter on the Form 1520 the number of the gauging tank. If the spirits to be withdrawn are contained in

a storage tank or tank car, they will be drawn into the gauging tank, gauged and reported in the same manner as packages dumped for bulk gauging. Four copies of Form 179 with the storekeeper-gauger's report thereon, duly executed, and four copies of Form 1520 will be delivered by the storekeeper-gauger to the proprietor of the warehouse. One copy of Form 1520 will be retained by the storekeeper-gauger pending taxpayerment of the spirits represented thereby.

(53 Stat. 298 as amended, 335, 335 as amended; 26 U. S. C. 2800, 2882, 2883)

3. In § 185.1022 (page 5308), the word "copy" in the second line should read "copies", the word "all" in the third line should be deleted, the phrase "or in tank cars from other warehouses," should be inserted in the fifth line after the word "distilleries", and the seventh sentence should read "Where two or more lots of spirits are deposited in the same storage tank, the Forms 1520 covering such deposits shall be kept together." Section 185.1022 as corrected reads as follows:

§ 185.1022 *Files and records covering deposits.* The storekeeper-gauger's copies of Forms 1520 covering the deposit in warehouse of spirits received from distilleries or in tank cars from other warehouses, Forms 1619 and 1620 covering spirits received from other warehouses, Forms 1520 covering packages filled from storage tanks and retained in the warehouse, Forms 1520 covering packages filled from brandy-blending tanks, and Forms 1620 covering cases of bottled in bond spirits returned to the storage portion of the warehouse shall be filed as permanent records in the office of the storekeeper-gauger. Before filing such forms, the storekeeper-gauger shall make appropriate entries covering the receipt of the spirits in his summary of deposits and withdrawals, Form 1621. The storekeeper-gauger shall enter the date of deposit of the spirits in the warehouse at the bottom of each form. Forms 1520 and 1619 shall be filed under the name of the producing distiller (or warehouseman in the case of blended brandies) and arranged in chronological order according to date of deposit and in sequence by serial numbers of the packages where possible. Forms 1620 shall be filed similarly in a separate binder. Separate files shall be maintained for storage tanks and for packages filled from storage tanks and retained in the warehouse and for packages filled from brandy-blending tanks. Where two or more lots of spirits are deposited in the same storage tank, the Forms 1520 covering such deposits shall be kept together. The date of deposit of the spirits shall be entered at the bottom of each Form 236 covering spirits received in bond from other premises; at the bottom of each Form 1515 covering spirits bottled in bond and returned to the warehouse; and at the bottom of each Form 1685 covering brandy blended in brandy-blending tanks and returned to the warehouse, and such forms shall be filed separately by form number in chronological order.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter A—Armed Services Procurement Regulations

MISCELLANEOUS REVISIONS AND AMENDMENTS

Preamble. The Armed Services Procurement Regulations are amended as follows:

Part 400—General Provisions: Complete revision.

Part 401—Procurement by Formal Advertising: Complete revision.

Part 402—Procurement by Negotiation: Complete revision.

Part 403—Coordinated Procurement: Complete revision.

Part 404—Interdepartmental Procurement: Complete revision.

Part 405—Foreign Purchases: Complete revision.

Part 406—Contract Clauses and Forms: Complete revision of Subpart A—Clauses for Fixed-Price Contracts.

Part 408—Patents and Copyrights: Miscellaneous amendments and corrections.

Part 410—Federal, State and Local Taxes: Correction of § 410.401.

Part 411—Labor: Complete revision.

Part 414—Contract Cost Principles: Correction of § 414.502.

SOURCE: Armed Services Procurement Regulation, Revision No. 1, June 1, 1950.

[SEAL] — EDWARD F. WITSELL,
Major General, USA,
The Adjutant General.
GEORGE F. YORAN,
Rear Admiral, SC, USN, Assistant
Chief of Naval Material
(Procurement).
L. J. JUDGE,
Colonel, USAF,
Air Adjutant General.

PART 400—GENERAL PROVISIONS

SUBPART A—INTRODUCTION

Sec.	
400.100	Scope of subpart.
400.101	Purpose of subchapter.
400.102	Applicability of subchapter.
400.103	Effective date of subchapter.
400.105	Amendment of subchapter.
400.106	Department procedures under subchapter.
400.107	Procuring activity instructions under subchapter.
400.108	Deviations from subchapter.
400.109	Administration and interpretation.
400.110	Periodic reports of purchases and contracts.
400.111	Reports of suspected criminal conduct.

SUBPART B—DEFINITIONS OF TERMS

400.201	Definitions.
400.201-1	Department.
400.201-2	Secretary.
400.201-3	Procuring activity.
400.201-4	Head of a procuring activity.
400.201-5	Contracting officer.
400.201-6	Contracts.
400.201-7	Procurement.
400.201-8	Supplies.
400.201-9	Sources of supplies.

SUBPART C—BASIC POLICIES

400.300	Scope of subpart.
400.301	Methods of procurement.
400.302	Sources of supplies.

Sec.	
400.302-1	Government agencies.
400.302-2	Sources outside the Government.
400.302-3	Small business concerns.
400.302-4	Foreign purchases.
400.303	Ineligible contractors and disqualified bidders.
400.303-1	Additions to and removals from the list of ineligible contractors and disqualified bidders.
400.303-2	Exchange of lists.
400.304	Types of contracts.
400.305	Specifications.
400.305-1	Inadequate specifications.

SUBPART D—PROCUREMENT RESPONSIBILITY AND AUTHORITY

400.400	Scope of subpart.
400.401	Responsibility of each procuring activity.
400.402	General authority of contracting officers.
400.403	Requirements to be met before entering into contracts.
400.404	Special requirements to be met before entering into negotiated contracts.

AUTHORITY: §§ 400.100 to 400.404 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup., 151-161.

SUBPART A—INTRODUCTION

§ 400.100 *Scope of subpart.* This subpart sets forth (a) introductory information pertaining to the subchapter (its purpose, applicability, effective date, and arrangement) and (b) instructions for amending, implementing, and deviating from the subchapter.

§ 400.101 *Purpose of subchapter.* This subchapter, issued by the Secretaries of the Army, Navy, and Air Force, establishes for the Departments of the Army, Navy, and Air Force uniform policies relating to the procurement of supplies and services under the authority of the Armed Services Procurement Act of 1947, Public Law 413, 80th Congress, 41 U. S. Code 151-161 (hereinafter referred to as "the act"), or under other statutory authorization.

§ 400.102 *Applicability of subchapter.* This subchapter shall apply to all purchases and contracts made by any Department for the procurement of supplies or services which obligate appropriated funds (including available contract authorizations) and which are executed as of a date on or after the effective date of the subchapter. This subchapter shall not apply (a) to any contract formalizing a preliminary contractual agreement, such as a letter contract or a letter of intent, which itself was made prior to the effective date of the subchapter; or (b) to any amendment, modification, or supplemental agreement with respect to any contract executed as of a date prior to the effective date of the subchapter: *Provided*, That the subchapter shall apply to any such amendment, modification, or supplemental agreement which provides for the new or additional procurement of supplies or services. Each negotiated contract shall cite or refer to either the appropriate paragraph of section 2 of the act (together with any such supporting statement or certificate as is required by the provisions of Part 402 of this subchapter) or such other statutory authorization as may apply. Rules, regulations, and directives of any De-

partment or Departments not in conflict with this subchapter, as from time to time amended, shall remain in full force and effect. This subchapter is not intended to cover detailed procurement procedures or instructions of the respective Departments and their procuring activities, all of which procedures and instructions may be prescribed as provided in §§ 400.106 and 400.107.

§ 400.103 *Effective date of subchapter.* This subchapter shall be effective on and after May 19, 1948.

§ 400.105 *Amendment of subchapter.* This subchapter may be amended from time to time by joint action of the Secretaries of the three Departments. Recommendations for amendments shall be submitted within each Department to the Secretary thereof, in accordance with procedures prescribed by that Department. Unless otherwise specifically provided in any amendment, compliance therewith shall not be mandatory until thirty days after the date of its issuance, although compliance shall be authorized from such date.

§ 400.106 *Department procedures under subchapter.* The Secretary of any Department may implement this subchapter by prescribing for his Department detailed procurement procedures which are not inconsistent with this subchapter. Copies of such procedures shall be forwarded to the other Departments.

§ 400.107 *Procuring activity instructions under subchapter.* The head of any procuring activity of any Department may prescribe for his activity detailed operating instructions which are not inconsistent with this subchapter or with the procurement procedures prescribed for that Department. Copies of such operating instructions will be distributed in accordance with procedures prescribed by each respective Department.

§ 400.108 *Deviations from subchapter.* Deviations from the requirements of this subchapter shall be made only in accordance with procedures prescribed by each respective Department, and then only in cases where special circumstances justify the deviation. A report of any such deviation shall be furnished to the other Departments.

§ 400.109 *Administration and interpretation.* All procedures, instructions, deviations, and interpretations with respect to this subchapter shall be approved in accordance with procedures prescribed by each respective Department.

§ 400.110 *Periodic reports of purchases and contracts.* The following periodic reports of purchases and contracts shall be made by each Department in accordance with the specified provisions of this subchapter and in the form and manner to be prescribed by each respective Department:

(a) In accordance with the provisions of § 400.302-3, an annual report of the total value of all contracts placed by each Department during each fiscal year with small business concerns;

(b) In accordance with the provisions of § 402.103 of this subchapter, an an-

nual report of the total value of all contracts negotiated by each Department during each fiscal year under each of the circumstances permitting negotiation enumerated in Subpart B of Part 402 of this subchapter.

(c) In accordance with the provisions of § 402.211-4 of this subchapter, a semi-annual report of all research and development contracts negotiated by each Department; and

(d) In accordance with the provisions of § 402.216-4 of this subchapter, a semi-annual report of all contracts negotiated by each Department in the interest of national defense or industrial mobilization.

§ 400.111 *Reports of suspected criminal conduct.* Reports of possible violations of Federal criminal statutes relating to procurement shall be made by each respective Department in accordance with procedures prescribed by that Department.

SUBPART B—DEFINITIONS OF TERMS

§ 400.201 *Definitions.* As used throughout this subchapter, the following terms shall have the meanings set forth in §§ 400.201-1 to 400.201-9, inclusive. The definitions in §§ 400.201-1 to 400.201-9 shall not apply to contracts which are performed outside the geographic limits of the United States, its territories, and the District of Columbia, except where such performance requires a shipment from within such geographic limits.

§ 400.201-1 *Department.* The term "Department" includes the Department of the Army, the Department of the Navy, and the Department of the Air Force.

§ 400.201-2 *Secretary.* The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of any Department.

§ 400.201-3 *Procuring activity.* The term "procuring activity" includes, for the Army, the technical services, the Continental armies, the National Guard Bureau, the Military District of Washington, and the major overseas commands; for the Navy, each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, the Military Sea Transportation Service, and the United States Marine Corps; for the Air Force, the Air Materiel Command, and the major overseas commands. It also includes the Armed Services Medical Procurement Agency, the Armed Services Petroleum Purchasing Agency, and any other procuring activity hereafter established. The number and designation of particular procuring activities of any Department may be changed by directive of the Secretary of that Department.

§ 400.201-4 *Head of a procuring activity.* The term "head of a procuring activity" includes, for the Army, the Chiefs of the technical services, the Continental Army Commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, and the Commanding Generals of the major overseas com-

mands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, the Commander, Military Sea Transportation Service, and the Commandant of the United States Marine Corps; for the Air Force, the Commanding General of the Air Materiel Command, and the Commanding Generals of the major overseas commands. It also includes the Chief of the Armed Services Medical Procurement Agency, the Executive Officer of the Armed Services Petroleum Purchasing Agency, and the head of any other procuring activity hereafter established. The number and designation of heads of procuring activities within any Department may be changed by directive of the Secretary of that Department.

§ 400.201-5 *Contracting officer.* The term "Contracting Officer" means any officer or civilian employee of any Department who, in accordance with procedures prescribed by each respective Department, has been or shall be designated a Contracting Officer (and whose designation has not been terminated or revoked) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or any part of such authority, as hereinafter provided.

§ 400.201-6 *Contracts.* The term "contracts" means all types of agreements and orders for the procurement of supplies or services. It includes, by way of description and without limitation, awards and preliminary notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders or task letters thereunder; letter contracts, letters of intent, and purchase orders. It also includes amendments, modifications, and supplemental agreements with respect to any of the foregoing.

§ 400.201-7 *Procurement.* The term "procurement" includes, by way of description and without limitation, purchasing, renting, leasing, or otherwise obtaining supplies or services.

§ 400.201-8 *Supplies.* The term "supplies" means all property except land or interests in land. It includes, by way of description and without limitation, public works, buildings, facilities; ships, floating equipment, and vessels of every character, type and description, together with parts and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

§ 400.201-9 *Sources of supplies.* The term "sources of supplies" shall include only (a) manufacturers or (b) regular dealers in the supplies to be procured. A "regular dealer" shall be deemed to be any one of the following:

(1) A person or (firm) who owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and

sold to the public in the usual course of business;

(2) A bona fide manufacturer's agent regularly employed on a salary or commission basis by one or more manufacturers of the supplies being procured, provided such agent has authority to bind the manufacturer, and provided further that any procurement of supplies from or through such agent results in a contract issued in the name of the principal;

(3) In the case of supplies of particular kinds (lumber and timber products, coal, machine tools, raw cotton, green coffee, or hay, grain, feed, and straw) a person or firm satisfying the requirements of Article 101 (b) of the Regulations, as amended from time to time, prescribed by the Secretary of Labor under the Walsh-Healey Public Contracts Act (41 U. S. Code 35) (41 CFR 201.101 (b)).

SUBPART C—BASIC POLICIES

§ 400.300 *Scope of subpart.* This subpart sets forth the general procurement policies of the Departments with respect to (a) methods of procurement, (b) sources of supply (including governmental and foreign purchases), (c) ineligible contractors and disqualified bidders, (d) types of contracts, and (e) specifications.

§ 400.301 *Methods of procurement.* It shall be the objective of each Department to use that method of procurement which will be most advantageous to the Government—price, quality, and other factors considered. The two principal methods of procurement are by means of formal advertising and by means of negotiation. Procurement shall generally be effected by advertising for bids and thereafter awarding a contract to the lowest responsible bidder, all in accordance with the detailed requirements and procedures set forth in Part 401 of this subchapter. Procurement may be effected by negotiation, however, when authorized by and conducted in accordance with the detailed requirements and procedures set forth in Part 402 of this subchapter. Procurement may also be effected, as provided in Parts 403 and 404 of this subchapter, by such means as (a) coordinated procurement or (b) interdepartmental procurement.

§ 400.302 *Sources of supplies.*

§ 400.302-1 *Government agencies.* To the extent possible, supplies shall be obtained from surplus property in the hands of disposal agencies, or from surplus or excess stocks in the hands of any Government agency. Interdepartmental purchases shall be made in accordance with the provisions of Part 404 of this subchapter.

§ 400.302-2 *Sources outside the Government.* Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "quotations" in the case of procurement by negotiation) shall be solicited from all such qualified sources of supplies or services as are

deemed necessary by the Contracting Officer to assure such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the Department concerned, and thereby to obtain for the Government the most advantageous contract—price, quality, and other factors considered.

§ 400.302-3 Small business concerns. It shall be the policy of each Department to place with small business concerns (herein considered to be any concern which, including its affiliates, employs in the aggregate fewer than 500 persons) a fair proportion of the total procurement of supplies and services for that Department. As a means of carrying out this policy, and when not clearly to the disadvantage of the Department, the procurement of supplies or services shall be divided into such reasonably small lots as will enable and encourage small business concerns to make bids or quotations on such supplies or services or on portions thereof. Each Department shall maintain a record of the total value of all contracts placed by it during each fiscal year with small business concerns, and shall prepare an annual report thereon, as of the end of each fiscal year and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the Department of Defense for the preparation of a combined Armed Services report to be submitted to the President. To this end, each Department shall, in soliciting competitive proposals, request any necessary information as to the size of each business concern submitting a proposal.

§ 400.302-4 Foreign purchases. Foreign purchases shall be made in accordance with the provisions of Part 403 of this subchapter and upon compliance with any other applicable provisions of this subchapter.

§ 400.303 Ineligible contractors and disqualified bidders. In accordance with its own procurement procedures, each Department shall maintain, and make available to all procuring activities of that Department, a current list of ineligible contractors and disqualified bidders, which list shall (a) comprise the following different groups of persons and firms, (b) indicate the reason for placing each person or firm on such list, and (c) indicate the extent to which each procuring activity is restricted in its dealings with any person or firm on such list:

(1) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (41 U. S. Code 35) which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that act.

(2) Persons and firms listed by the Department of Labor which have been held ineligible to be awarded contracts subject to the Walsh-Healey Public Contracts Act (that is, any contract for supplies in an amount exceeding \$10,000) for the reason that they do not qualify as "manufacturers" or "regular dealers"

within the meaning of section 1 (a) of said act.

(3) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U. S. Code 276a) found by the Comptroller General to have violated said act.

(4) Contractors who have been disqualified or declared ineligible in accordance with procedures prescribed by each respective Department.

§ 400.303-1 Additions to and removals from the list of ineligible contractors and disqualified bidders. The names of contractors or bidders shall be placed on or removed from a Department's list of ineligible contractors and disqualified bidders in accordance with procedures prescribed by that Department.

§ 400.303-2 Exchange of lists. Each Department shall forward a copy of its list to the other Departments, and shall keep the other Departments advised of changes therein.

§ 400.304 Types of contracts. Only the fixed-price or lump-sum type of contract shall be used for procurement by formal advertising. For procurement by negotiation, it shall be the general practice for the fixed-price type of contract to be used (with or without provision for price revision), although under such method of procurement it shall be permissible to use any other method of contracting which complies with the applicable provisions of Subpart D of Part 402 of this subchapter.

§ 400.305 Specifications. There shall be one system of military specifications to be used by all Departments in accordance with policies and procedures to be established by the Munitions Board. Existing or new specifications, and amendments thereto, may be used until superseded or revised. Applicable Federal Specifications, as prepared by the Director of the Federal Supply Service, General Services Administration, are acceptable for use. If for administrative reasons an applicable Federal specification cannot be used to meet the particular or essential needs of a Department, Military specifications or purchase specifications of that Department may then be used; *Provided*, That such specifications shall include in substance all applicable provisions of the related Federal specification.

§ 400.305-1 Inadequate specifications. Whenever a specification is found to be inadequate, immediate action shall be taken to effect the issuance of an amendment or a revision in accordance with established procedures to obviate the necessity for repeated departures from the specification.

SUBPART D—PROCUREMENT RESPONSIBILITY AND AUTHORITY

§ 400.400 Scope of subpart. This subpart deals with the procurement responsibility and authority of (a) the head of each procuring activity, and (b) Contracting Officers; and imposes limitations upon the authority to enter into contracts.

§ 400.401 Responsibility of each procuring activity. Except as otherwise prescribed by procedures of each respective Department, the head of each procuring activity, as now or hereafter established, is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his activity. The head of each procuring activity is authorized, within limits imposed by his Department, to designate such person or persons as he may select as Contracting Officers, within the meaning of that term as used throughout this subchapter.

§ 400.402 General authority of contracting officers. In accordance with the provisions of § 400.401, and subject to the requirements prescribed in §§ 400.403 and 400.404, any Contracting Officer is hereby authorized to enter into contracts for supplies or services, in accordance with procedures prescribed by the Department concerned, on behalf of the Government and in the name of the United States of America, whether by formal advertising or by negotiation or by coordinated or interdepartmental procurement as provided in this subchapter.

§ 400.403 Requirements to be met before entering into contracts. Irrespective of whether procurement is to be effected by formal advertising or by negotiation, no contract shall be entered into unless—

(a) All applicable requirements of law, of this subchapter, and of procedures prescribed by each respective Department have been met; and

(b) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained.

§ 400.404 Special requirements to be met before entering into negotiated contracts. In addition to the requirements set forth in § 400.403, no contract shall be entered into as a result of negotiation until such determinations and findings as may be required with respect to the circumstances justifying negotiation and with respect to the use of a special method of contracting have been made by the persons and in the manner prescribed in Subparts C and D of Part 402 of this subchapter.

PART 401—PROCUREMENT BY FORMAL ADVERTISING

Sec.	
401.000	Scope of part.
SUBPART A—USE OF FORMAL ADVERTISING	
401.101	Meaning of formal advertising.
401.102	Use of formal advertising.
401.103	General requirements for formal advertising.
SUBPART B—SOLICITATION OF BIDS	
401.200	Scope of subpart.
401.201	Preparation of forms.
401.202	Methods of soliciting bids.
401.202-1	Mailing or delivering to prospective bidders.
401.202-2	Displaying in public place.
401.202-3	Publishing in trade journals.
401.202-4	Publishing in newspapers.
401.202-5	Synopses of invitations for bids.
401.203	Office of permanent record.

SUBPART C—SUBMISSION OF BIDS

- Sec.
401.301 Method of submission.
401.302 Time of submission.
401.303 Modification or withdrawal of bids.

SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

- 401.400 Scope of subpart.
401.401 Opening of bids.
401.402 Recording of bids.
401.403 Rejection of bids.
401.404 Minor informalities or irregularities in bids.
401.405 Mistakes in bids.
401.405-1 Obvious or apparent mistakes of a clerical nature.
401.405-2 Mistakes other than obvious or apparent mistakes of a clerical nature.
401.405-3 Disclosure of mistakes after award.
401.406 Award.
401.406-1 Responsible bidder.
401.406-2 Discounts.
401.406-3 Other factors to be considered.
401.406-4 Equal low bids.
401.406-5 Statement and certificate of award.
401.407 Information to bidders.

SUBPART E—QUALIFIED PRODUCTS

- 401.500 Scope of subpart.
401.501 Authority for qualified products.
401.502 Justification for inclusion of products on Qualified Products List.
401.503 Qualification of products.
401.503-1 Opportunity to qualify.
401.503-2 Testing of product.
401.503-3 Notification to manufacturer.
401.504 Qualified products lists.
401.504-1 Joint Army-Navy-Air Force lists.
401.504-2 Department lists.
401.504-3 Form and distribution of lists.
401.504-4 Promotional purposes.
401.504-5 Requirement that lists be kept open.
401.504-6 Withdrawal of approval.
401.505 Procurement of qualified products.
401.505-1 Contracts entered into by formal advertising.
401.505-2 Solicitation of bids.
401.505-3 Contracts entered into by negotiation.

AUTHORITY: §§ 401.000 to 401.505 Issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup., 151-161.

§ 401.000 Scope of part. This part sets forth, on the basis of the provisions of an authority contained in the act, (a) the basic requirements for the procurement of supplies and services by means of formal advertising, (b) the information to be contained in forms used for the solicitation of bids, (c) methods of soliciting bids, (d) policies with respect to the submission of bids, (e) requirements for the opening and evaluation of bids and for the awarding of contracts, and (f) requirements for the procurement of qualified products.

SUBPART A—USE OF FORMAL ADVERTISING

§ 401.101 Meaning of formal advertising. As used throughout this subchapter, formal advertising means that method of procurement prescribed in this part with respect to competitive bids and awards.

§ 401.102 Use of formal advertising. In accordance with the basic policies set forth in Subpart C of Part 402 of this Subchapter, procurement of supplies and services shall generally be effected by formal advertising. Bids shall be so-

licitated from all such qualified sources of supplies or services as are deemed necessary by the Contracting Officer to assure such full and free competition as is consistent with the procurement of the required supplies or services. Current lists of bidders shall be maintained by each purchasing office.

§ 401.103 General requirements for formal advertising. No contract shall be entered into as a result of formal advertising unless and until all of the following requirements have been satisfied:

- (a) Bids have been solicited in accordance with the requirements of Subpart B of this part;
- (b) Bids have been submitted in accordance with the requirements of Subpart C of this part;
- (c) All applicable requirements of law, of this subchapter, and of procedures prescribed by each respective Department have been met;
- (d) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained; and
- (e) Award has been made to that responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered, as prescribed in Subpart D of this part.

SUBPART B—SOLICITATION OF BIDS

§ 401.200 Scope of subpart. This subpart deals with (a) preparation of forms to be used in the solicitation of bids, and (b) methods of soliciting bids.

§ 401.201 Preparation of forms. The form or forms to be used in the solicitation of bids should contain substantially the following information and any other information required by procedures prescribed by each respective Department.

(a) *Invitation for bids.* (1) Invitation number.
(2) Name and address of issuing activity.

(3) Date of issuance.

(4) Date, hour, and place of opening.

(b) *Bid.* Bid blanks are to be filled in by the bidder, and each bid is to be executed in accordance with instructions to bidders.

(c) *Schedule.* (1) Number of pages.

(2) Requisition (or other purchase authority), appropriation, and accounting data.

(3) Discount provisions (including the removal of or changes in standard discount provisions whenever it is expected that prompt-payment discounts cannot be taken according to a time schedule set forth in the printed form).

(4) Quantity of supplies or services to be furnished under each item, and any provision for quantity variation.

(5) Description of supplies or services to be furnished under each item, such description to be in accordance with the provisions of § 400.305 of this subchapter relating to specifications and with procedures prescribed by each respective Department.

(6) Whenever specifications require prior testing and qualification of products, the right to reject bids offering products which do not meet this requirement of prior testing and qualification

must be expressly reserved either in the specification itself or in the schedule. (See § 401.505-2.)

(7) Time, place, and method of delivery.

(8) Permission, if any, to submit telegraphic bids.

(9) Permission, if any, to submit alternative bids, including alternative materials or designs.

(10) Requirement, in the case of advertising for the construction of Naval vessels, that the bidder file with his bid the estimates on which the bid is based.

(11) Preservation, packaging, packing, and marking requirements, if any.

(12) Place, method, and conditions of inspection.

(13) Bond and surety requirements, if any.

(14) Special provisions relating to such matters as Government-furnished property, progress payments, patent licenses, liquidated damages, profit limitations, etc.: *Provided*, That any such special provisions are authorized.

(d) *General provisions or conditions.* In addition to the special provisions set forth in paragraph (c) of this section, each solicitation of bids shall include such general contract provisions or conditions as are required by law, by this subchapter, and by procedures prescribed by each respective Department.

§ 401.202 Methods of soliciting bids. Manufacturers and regular dealers, as defined in § 401.201-9, regardless of size, who can establish or have established their fitness and ability to fulfill contract requirements, will be placed on mailing lists for bids or notices in advance of bids. Contracting Officers may elect to send either invitations for bids or advance notices, but shall use one method exclusively in each separate procurement action. Bids shall be solicited by the methods prescribed in §§ 401.202.1 and 401.202-2, and by the methods prescribed in §§ 401.202-3 and 401.202-4 to the extent deemed necessary by the Contracting Officer in order to assure full and free competition: *Provided*, That (a) bids shall be solicited sufficiently in advance of the opening of bids to allow bidders an adequate opportunity to prepare and submit their bids, and (b) bids with respect to classified purchases shall be solicited in accordance with procedures prescribed by each respective Department. Synopses of invitations for bids shall be prepared and distributed as prescribed in § 401.202-5.

§ 401.202-1 Mailing or delivering to prospective bidders. The form or forms to be used in the solicitation of bids shall be filled out and mailed (or delivered) to each prospective bidder. Invitations for Bids shall not be mailed to persons or firms other than manufacturers or regular dealers, but may be mailed to Federal Government agencies, including procurement information offices.

§ 401.202-2 Displaying in public place. Copies of the form or forms to be used in the solicitation of bids shall be filled out and displayed at the purchasing office or at some other appropriate public place. To the extent that unclassified invitations for bids are available, they shall be provided at the pur-

chasing office to manufacturers and regular dealers and to others having a legitimate interest therein, such as publishers, trade associations, procurement information services and others who disseminate information concerning invitations for bids; otherwise the purchasing office may limit the availability of invitations to perusal at such office.

§ 401.202-3 Publishing in trade journals. A brief announcement of the proposed purchase may be made available for free publication to trade journals or magazines whose subscribers are manufacturers of or dealers in the supplies or services being procured.

§ 401.202-4 Publishing in newspapers. The essential details of any proposed purchase may be made available to newspapers for free publication. Paid advertisements in newspapers shall generally not be used; but when it is deemed necessary in order to secure effective competition, a brief announcement of the proposed purchase may be inserted in newspapers as paid advertisements, subject to the following conditions:

(a) Written authority for such publication has been obtained from the Secretary of the Department concerned or from his duly authorized representative;

(b) All requirements of law set forth in 44 U. S. Code 321-324 have been met; and

(c) The advertisement shall be prepared in accordance with General Regulations No. 109, revised, issued by the General Accounting Office (28 Comp. Gen. 742) (4 CFR, 1949 Supp., Part 14).

§ 401.202-5 Synopses of invitations for bids. Synopses of invitations for bids, designed to furnish potential suppliers with sufficient information to permit them to determine whether they will be interested in bidding, shall be prepared by the principal purchasing offices of each Department immediately upon completion of final approved drafts of invitations for bids. Lists of such principal departmental purchasing offices, required to prepare synopses of invitations for bids, and lists of Department of Commerce Regional Offices to which procurement information will be sent, will be published in accordance with the procedures of each Department.

(a) Synopses of invitations for bids will be reproduced in sufficient quantities to be made available as follows:

(1) Copies of the synopses will be provided at the purchasing offices for those who wish to pick them up; and

(2) A copy of the synopsis covering invitations for bids, if any, issued each day will be sent by air mail at the end of the day to the designated Department of Commerce Regional Offices.

(b) A copy of each invitation for bids shall be mailed promptly by each of such principal purchasing offices to such Department of Commerce Regional Offices.

(c) A synopsis of invitations for bids shall not include any invitations scheduled to be opened less than 18 days from date of issue.

(d) A synopsis of invitations for bids will include the following information.

(1) Name and address of the purchasing office;

(2) Brief description of the item to be procured;

(3) Quantity to be procured;

(4) Invitation number;

(5) Date of bid opening; and

(6) A statement that any additional information desired and, if available, individual copies of invitations for bids may be obtained directly from the purchasing office issuing the synopsis.

§ 401.203 Office of permanent records. Each purchasing office is the office of permanent record for every invitation for bids issued and distributed by it and for abstract or record of bids. The file of the invitation for bids should show the distribution which was made and the date thereof.

SUBPART C—SUBMISSION OF BIDS

§ 401.301 Method of submission. Bids shall be filled out, executed, and submitted by each bidder in accordance with the instructions accompanying the appropriate bid form. Neither telegraphic nor alternative bids shall be considered unless authorized by the invitation for bids or its accompanying papers.

§ 401.302 Time of submission. Bids shall be submitted in sufficient time to reach the designated office prior to the time fixed for opening. Bids received after the time fixed for opening are late bids; and the exact date and hour of mailing such bids, as shown by the cancellation stamp or by the stamp of an approved metering device shall be recorded. Such late bids shall be considered: *Provided*, They are received before the award has been made: *And provided*, The failure to arrive on time was due solely to a delay in the mails for which the bidder was not responsible; otherwise, late bids shall not be considered but shall be held unopened until the time of award and then returned to the bidder, unless other disposition is requested or agreed to by the bidder.

§ 401.303 Modification or withdrawal of bids. Bids may be modified or withdrawn, at any time prior to the time fixed for opening thereof, by written or telegraphic notice received prior to the time fixed for opening. After the opening of bids, no bid may be modified (except as provided in §§ 401.404 and 401.405), or withdrawn unless such modifications or withdrawal is received before the award has been made and either (a) failure of the modification or withdrawal to arrive prior to the time fixed for opening was due solely to a delay in the mails for which the bidder was not responsible or (b) modification is in the interest of the Government and not prejudicial to the other bidders.

SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

§ 401.400 Scope of subpart. This subpart deals with (a) the opening and recording of bids, (b) the rejection of bids, (c) informalities, irregularities, and mistakes in bids, and (d) the evaluation of bids and the awarding of contracts.

§ 401.401 Opening of bids. All bids received prior to the time of opening will be kept secure and unopened until the time of opening (except that an unidentified bid may be opened solely for purposes of identification: *Provided*, That such bid shall be resealed immediately and that no information obtained therefrom shall be disclosed), whereupon they shall be publicly opened and read aloud by the Government official whose duty it is to open the bids. Whereas it is the primary responsibility of bidders to prepare their bids correctly and completely, nevertheless it is the duty of the Contracting Officer, after the opening of bids and prior to award, to examine all bids for minor informalities or irregularities and for obvious or apparent mistakes (as referred to in §§ 401.404 and 401.405 respectively). The original bids shall not be allowed to pass out of the hands of an official of the Government, except when a duplicate bid cannot be made available for public inspection, and then only under the immediate supervision of an official of the Government and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration in the bid.

§ 401.402 Recording of bids. The names of the bidders and the prices bid shall be entered in an abstract or record which shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the opening date, invitation number, general description of the material, lot number, and total bid price. As soon as all bids have been opened and read, the official in charge shall make the certification in the record in accordance with procedures prescribed by each respective Department.

§ 401.403 Rejection of bids. Any bid which does not conform to the essential requirements of the invitation for bids shall be rejected: *Provided*, That any such bid may be considered when in the interest of the Government and not prejudicial to the other bidders. All bids may be rejected by the Contracting Officer (a) when rejection is in the interest of the Government, or (b) when he finds in writing that the bids are not reasonable, or were not independently arrived at in open competition, or are collusive, or were submitted in bad faith: *Provided*, That, if negotiation is to be used after any such rejection of all bids, the requirements of § 402.215 of this subchapter must be satisfied. The originals of all rejected bids, and any written findings with respect to rejection, shall be preserved with the papers relating to the proposed purchase. Reports of possible violations of the antitrust laws or of any other Federal criminal statutes relating to procurement shall be made by each respective Department in accordance with procedures prescribed by that Department: *Provided*, That any evidence of bids not independently arrived at shall be forwarded to the Department of Justice.

§ 401.404 Minor informalities or irregularities in bids. The Contracting

Officer shall give to the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or in the alternative, when it is not to the disadvantage of the Government, may waive any such deficiency when time does not permit the curing thereof. Illustrative examples of minor informalities or irregularities are the following: inadvertent failure to furnish bid bond with bid; failure to affix corporate seal; failure to furnish required catalogs, cuts or descriptive data.

§ 401.405 Mistakes in bids.

§ 401.405-1 *Obvious or apparent mistakes of a clerical nature.* Any clerical mistake obvious or apparent on the face of a bid may be corrected by the Contracting Officer prior to award: *Provided*, There has first been obtained from the bidder, in response to a request for verification of the bid, a statement as to any such mistake therein. Illustrative examples of such obvious or apparent mistakes are the following: obvious error in placing decimal point; obvious discount errors (for example—1 percent 10 days, 2 percent 20 days, 5 percent 30 days); erroneous quotations of a lower price f. o. b. destination than f. o. b. factory.

§ 401.405-2 *Mistakes other than obvious or apparent mistakes of a clerical nature.* In the case of any suspected or alleged mistake in a bid other than an obvious or apparent clerical mistake on the face of the bid, the Contracting Officer shall obtain from the bidder, prior to award, either a verification of the bid or evidence in support of the mistake, whereupon the case shall be processed to the General Accounting Office in accordance with procedures prescribed by each respective Department: *Provided*, That:

(a) If the bidder fails or refuses to furnish evidence in support of the mistake, the Contracting Officer shall consider the bid in the form submitted; or

(b) If time does not permit processing in accordance with customary procedures, and if there is no room for doubt as to the price or other terms intended in the bid in which a mistake occurred, the Contracting Officer (1) in the case of a mistake in the lowest bid which as clearly intended would not be the lowest bid, may disregard such bid, or (2) in the case of a mistake in the lowest bid which as clearly intended would still be the lowest bid, shall make the award on the basis of such low bid as originally submitted, but subject to correction if authorized by the General Accounting Office, or (3) in the case of a mistake in any bid other than the lowest bid, shall consider such bid on the basis of its price or other terms as clearly intended.

Whenever a mistake in bid is to be processed in accordance with customary procedures, the following papers should accompany a copy of the bid which contains the suspected or alleged mistake:

- (i) A copy of the invitation for bids;
- (ii) An abstract or records of bids received;
- (iii) A statement from the bidder, and any additional supporting evidence such as work sheets or other data used in

preparing the bid, setting forth the complete facts on which the allegation of mistake is based and requesting such definite relief as withdrawal of the bid, change in bid price, etc.; and

(iv) A statement from the Contracting Officer showing the date when notice of the alleged mistake was received, and any additional information he may have as to the alleged mistake, together with his recommendations.

§ 401.405-3 *Disclosure of mistakes after award.* When an alleged mistake in a bid is disclosed after award has been made, the case shall be processed in accordance with procedures prescribed by each respective Department.

§ 401.406 Award. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That an award shall not be made to other than the lowest responsible bidder except in accordance with procedures prescribed by each respective Department. Award will be effected by mailing or delivering to the bidder a properly executed award or preliminary notice of award.

§ 401.406-1 *Responsible bidder.* A "responsible bidder" is a bidder who satisfies all of the following requirements:

- (a) Is a manufacturer or regular dealer, as defined in § 400.201-9 of this subchapter;
- (b) Is financially and otherwise able to perform the contract; and
- (c) Is otherwise qualified and eligible by law and under this subchapter.

§ 401.406-2 *Discounts.* In determining which of several bids received is the lowest, any discount offered shall be deducted from the bid price under the assumption that the discount shall be taken, unless it is known with reasonable certainty that the Government cannot take advantage of the discount within the time specified. If, when the bids are opened, facts become known which render it necessary to disregard a discount, a full statement of the facts and circumstances and of the reasons for the action taken shall be entered upon the abstract or record of bids and on U. S. Standard Form 1036 (as referred to in § 401.406-5) whenever such bid would have been the lowest bid received if the discount offered were taken.

§ 401.406-3 *Other factors to be considered.* Among other factors besides price that may be considered in making an award are the following:

- (a) Judgment, skill, and integrity of a bidder;
- (b) Reputation and experience of a bidder, and prior work of a similar nature done by him;
- (c) Foreseeable costs or delays to the Government resulting from differences in inspection, shipping, location of supplies, etc.;
- (d) Changes made or requested in any of the provisions of the solicitation, to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 401.403;

(e) Restrictions or conditions imposed in the bid; and

(f) Advantages or disadvantages to the Government that might result from making multiple awards.

§ 401.406-4 *Equal low bids.* (a) When two or more low bids are equal in all respects (taking into consideration cost of transportation, cash discounts, and all other factors properly to be considered), award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives: *Provided*:

(1) Subject to (2), (3), and (4) of this paragraph, (i) in the case of equal low bids, one of which is submitted by a small business concern, as defined in § 400.302-3 of this subchapter, award shall be made to the small business concern, and (ii) in the case of equal low bids, two or more of which are submitted by small business concerns, award shall be made by a drawing by lot limited to the small business concerns.

(2) Where two or more equal low bids are received from small business concerns, one of which is submitted by a bidder who will perform the contract in a distressed employment area, designated as such by or on behalf of the President, award shall be made to the small business concern who will perform the contract in the distressed employment area.

(3) In the case of equal low bids, two or more of which are submitted by small business concerns who will perform the contract in a distressed employment area, award shall be made by a drawing by lot limited to the small business concerns in the distressed employment area.

(4) Where two or more equal low bids are received, one bid being from a business concern (whether small or not) not in a distressed employment area and the other being from a bidder who, although not a small business concern, will perform the contract in a distressed employment area, award shall be made to the latter.

(b) When award is to be made by lot and the information available shows that the product of a particular manufacturer is offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

§ 401.406-5 *Statement and certificate of award.* In connection with every purchase made by formal advertising, the Contracting Officer shall prepare and execute a statement and certificate of award on U. S. Standard Form 1036, which shall be attached to the original documents and papers constituting the contract which are forwarded to the General Accounting Office. Such certificate shall either (a) state that the accepted bid was the lowest bid received, or (b) list all lower bids and set forth reasons for accepting a bid other than the lowest. In each case where an award is made pursuant to (1), (2), (3), or (4) of § 401.406-4 (a), such certificate shall briefly recite the circumstances under which award was made and shall con-

tain a statement that it has been administratively determined that the award will further the Congressional policy with respect to small business expressed in section 2 (b) of the Armed Services Procurement Act of 1947 or will further the President's policy with respect to distressed employment areas, or both, as the case may be.

§ 401.407 *Information to bidders.* To the extent reasonable and practicable, and in accordance with procedures prescribed by each respective Department, any bidder or his authorized representative shall be furnished with authorized information in response to proper questions, including the names of the successful bidders and the prices at which awards were made for items on which the inquirer submitted bids, or in the alternative shall be informed that a copy of the abstract or record of bids is available for inspection at the purchasing office.

SUBPART E—QUALIFIED PRODUCTS

§ 401.500 *Scope of subpart.* This subpart deals with (a) qualified products, (b) lists of such products established by each respective Department and by the Munitions Board Standards Agency, and (c) the purpose and use of such lists in connection with the procurement of supplies.

§ 401.501 *Authority for qualified products.* In those instances where it has been shown to be necessary in the light of existing performance requirements to obtain products of requisite quality, each Department may subject certain products and materials to qualification tests, and may approve them for use. The results of such testing and approval may be set forth in a Qualified Products List. Such lists, together with the Qualified Products Lists established by the Munitions Board Standards Agency, shall be used for the purpose and in the manner set forth in this subpart.

§ 401.502 *Justification for inclusion of products on Qualified Product List.* A product may be included in any Qualified Products List only when one of the following conditions exists:

- The time required for testing after award would unduly delay delivery of the supplies being purchased;
- The cost of repetitive testing would be excessive;
- The tests would require expensive or complicated testing apparatus not commonly available;
- The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use;
- The determination of acceptability would require performance data to supplement technical requirements contained in the specifications.

§ 401.503 *Qualification of products.*

§ 401.503-1 *Opportunity to qualify.* Upon determination that a product is to be covered by a Qualified Products List, opportunity shall be given, and manufacturers urged, to submit for qualification tests any product of the general

type desired. Publicity shall be given to the following:

(a) Intention to place a product on a Qualified Products List; and

(b) In making future awards, the fact that consideration may be given only to such products as have been accepted for inclusion in a Qualified Products List.

§ 401.503-2 *Testing of product.* The manner, extent, and cost of testing shall be in accordance with procedures prescribed by each respective Department. Each Department shall inform the other Departments of such tests, and upon request shall furnish reports thereon to the other Departments. As a result of such testing each Department shall decide whether or not the product should be placed on the Qualified Products List of that Department. Products tested and qualified by any Department may be included in the Qualified Products List of any other Department.

§ 401.503-3 *Notification to manufacturer.* Each Department shall notify the manufacturer submitting a product for test of the approval or rejection of the product. In the event that the product is approved for inclusion in a Qualified Products List, notification thereof shall be given to the manufacturer together with a statement to the effect that such listing does not (a) guarantee acceptance of the product in any future purchase, (b) constitute a waiver of the requirements of the schedule or the specifications as to acceptance, inspection, testing, or other provisions of any contract involving such product, or (c) permit any statement of approval to be reproduced, circulated, referred to or otherwise used for private commercial sales, promotional or advertising purposes, and that if so used such approval is subject to cancellation by the Department concerned. In the event that the product is not approved for inclusion in a Qualified Products List, notice thereof shall be given to the manufacturer, with a report covering the results obtained by the test. Whether a product is approved or rejected, it will be returned after test to the manufacturer "as is" (unless destroyed in testing).

§ 401.504 *Qualified products lists.* Products qualified by qualification tests, as described in § 401.503, shall be listed for reference by the Departments. The information contained in these lists may be made available to interested bidders or contractors whenever specifications or solicitations of bids require qualified products.

§ 401.504-1 *Joint Army-Navy-Air Force lists.* Where qualification is in accordance with tests prescribed by joint Army-Navy-Air Force specifications, the compilation, preparation, maintenance, and administration of Qualified Products Lists shall be in accordance with the requirements of the Munitions Board Standards Agency.

§ 401.504-2 *Department lists.* Where qualification is in accordance with tests prescribed by a Department, Qualified Products Lists shall be compiled, prepared, maintained, and administered in

accordance with procedures prescribed by each respective Department.

§ 401.504-3 *Form and distribution of lists.* Each Qualified Products List shall include substantially the following information: Government designation, manufacturer's designation, test or qualification reference, and manufacturer's name and address. Each Department shall furnish copies of its list (including changes thereto) to each of the other Departments.

§ 401.504-4 *Promotional purposes.* No Department shall authorize the reproduction of lists or any reference to lists, in whole or in part, for advertising or promotional purposes except in connection with or for the purpose of furnishing supplies to a Department.

§ 401.504-5 *Requirement that lists be kept open.* The lists shall always be open for inclusion of products from additional manufacturers as their products are submitted for qualification and become qualified.

§ 401.504-6 *Withdrawal of approval.* The approval of a product may be withdrawn by the Department concerned if it is subsequently determined that the product does not meet requirements. In such event, the manufacturer shall be notified that his product is being considered for withdrawal from a Qualified Products List, and the reasons therefor shall be communicated to him. If, after a reasonable length of time, no satisfactory response has been received from such manufacturer in answer to such communication, and it is decided by the Department concerned that approval should be withdrawn, the manufacturer shall be notified of such withdrawal. A product may be removed from a list at the request of a manufacturer.

§ 401.505 *Procurement of qualified products.*

§ 401.505-1 *Contracts entered into by formal advertising.* Whenever procurement of qualified products by a Department is made pursuant to formal advertising in accordance with the provisions of this part, only bids offering products which have been approved or qualified need be considered in making an award. Manufacturers having products not listed should be given consideration and an opportunity to qualify if qualification testing of the product may be accomplished in the time interval before final award must be made.

§ 401.505-2 *Solicitation of bids.* Each solicitation of bids involving qualified products shall be distributed to known sources of supplies in accordance with the requirements of Subparts A and B of this part, and shall contain a statement substantially as follows:

In the procurement of products requiring qualification the right is reserved to reject bids on products that have not been subjected to the required test and found satisfactory for inclusion in the Qualified Products List of (insert designation of particular list or lists). The attention of suppliers is called to this requirement, and manufacturers are urged to communicate with the (insert name and address of sources of information) and arrange to have

the products that they propose to offer tested for qualification.

§ 401.505-3 *Contracts entered into by negotiation.* Nothing in this subpart shall be construed to prohibit reference to Qualified Products Lists for prospective sources of supplies in connection with contracts entered into by negotiation pursuant to Part 402 of this subchapter.

PART 402—PROCUREMENT BY NEGOTIATION

Sec.

402.000 Scope of part.

SUBPART A—USE OF NEGOTIATION

402.100 Scope of subpart.
402.101 Negotiation as distinguished from formal advertising.
402.102 General requirements for negotiation.
402.103 Records and reports of negotiated contracts.

SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

402.200 Scope of subpart.
402.201 National emergency.
402.201-1 Authorization.
402.201-2 Application.
402.202 Public exigency.
402.202-1 Authorization.
402.202-2 Application.
402.202-3 Limitation.
402.203 Purchases not in excess of \$1,000.
402.203-1 Authorization.
402.203-2 Application.
402.204 Personal or professional services.
402.204-1 Authorization.
402.204-2 Application.
402.205 Services of educational institutions.
402.205-1 Authorization.
402.205-2 Application.
402.206 Purchases outside the United States.
402.206-1 Authorization.
402.206-2 Application.
402.207 Medicines or medical supplies.
402.207-1 Authorization.
402.207-2 Application.
402.208 Supplies purchased for authorized resale.
402.208-1 Authorization.
402.208-2 Application.
402.209 Perishable subsistence supplies.
402.209-1 Authorization.
402.209-2 Application.
402.210 Supplies or services for which it is impracticable to secure competition by formal advertising.
402.210-1 Authorization.
402.210-2 Application.
402.210-3 Limitation.
402.211 Experimental developmental, or research work.
402.211-1 Authorization.
402.211-2 Application.
402.211-3 Limitation.
402.211-4 Records and reports.
402.212 Classified purchases.
402.212-1 Authorization.
402.212-2 Application.
402.212-3 Limitation.
402.213 Technical equipment requiring standardization and interchangeability of parts.
402.213-1 Authorization.
402.213-2 Application.
402.213-3 Limitation.
402.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
402.214-1 Authorization.
402.214-2 Application.
402.214-3 Limitation.

Sec.

402.215 Negotiation after advertising.
402.215-1 Authorization.
402.215-2 Limitation.
402.216 Purchases in the interest of national defense or industrial mobilization.
402.216-1 Authorization.
402.216-2 Application.
402.216-3 Limitation.
402.216-4 Records and reports.
402.217 Otherwise authorized by law.
402.217-1 Authorization.
402.217-2 Application.
402.218 Construction work.
402.218-1 Authorization.
402.218-2 Limitation.

SUBPART C—DETERMINATIONS AND FINDINGS

402.300 Scope of subpart.
402.301 Nature of determinations and findings.
402.302 Determinations and findings by the Secretary of a Department.
402.303 Determinations and findings by the head of a procuring activity signing as "a chief officer responsible for procurement".
402.304 Determinations and findings by a Contracting Officer.
402.305 Forms of determinations and findings.
402.306 Procedure with respect to determinations and findings.
402.307 Distribution of copies of determinations and findings.
402.308 Retention of copies of determinations and findings, and of other records.

SUBPART D—TYPES OF CONTRACTS

402.400 Scope of subpart.
402.401 Authorized types of contracts.
402.402 Fixed-price contract.
402.403 Fixed-price contract with provision for redetermination of price.
402.404 Incentive-type contract.
402.404-1 Limitation on use of incentive-type contract.
402.405 Cost contract.
402.405-1 Limitation on use of cost contract.
402.406 Cost-plus-a-fixed-fee contract.
402.406-1 Limitation on use of cost-plus-a-fixed-fee contract.
402.406-2 Limitations on fixed fee.
402.407 Time and materials contract.
402.408 Letter contract or letter of intent.
402.409 Other types of contracts.
402.410 Books and records of cost-type contractors.
402.411 Contract forms and provisions.

SUBPART E—ADVANCE PAYMENTS

402.500 Scope of subpart.
402.501 Nature of advance payments.
402.502 Authority to make advance payments.
402.503 Limitations on authority to make advance payments.
402.504 Security provisions.
402.505 Interest on advance payments.

AUTHORITY: §§ 402.000 to 402.505 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161.

§ 402.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the act, (a) the basic requirements for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required to be made before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, and (e) the

authority for making advance payments under negotiated contracts.

SUBPART A—USE OF NEGOTIATION

§ 402.100 *Scope of subpart.* This subpart deals with the nature and use of negotiation as distinguished from formal advertising, and with limitations upon that use.

§ 402.101 *Negotiation as distinguished from formal advertising.* As used throughout this subchapter, negotiation means that method of procurement under which the procedures for procurement by formal advertising, as set forth in Part 401 of this subchapter, are not required. Whenever supplies or services are to be procured by negotiation, price quotations, supported by statements and analyses of estimated costs or other evidence of reasonable prices and other vital matters deemed necessary by the Contracting Officer, shall be solicited from all such qualified sources of supplies or services as are deemed necessary by the Contracting Officer to assure full and free competition consistent with the procurement of the required supplies or services, in accordance with the basic policies set forth in Subpart C of Part 400 of this subchapter, to the end that the procurement will be made to the best advantage of the Government, price and other factors considered. Negotiation shall thereupon be conducted, by Contracting Officers and their negotiators, with due attention being given to the following and any other appropriate factors:

(a) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to cost of transportation, cash discounts, and any other factor relating to price;

(b) Comparison of the business reputations and responsibilities of the respective persons or firms who submit quotations;

(c) Consideration of the quality of the supplies or services offered, or of the same or similar supplies or services previously furnished, with due regard to the satisfaction of technical requirements;

(d) Consideration of delivery requirements;

(e) Discriminating use of price and cost analyses;

(f) Investigation of price aspects of any important subcontract;

(g) Individual bargaining, by mail or by conference;

(h) Consideration of cost sharing; and

(i) Effective utilization in general of the most desirable type of contract, and in particular of contract provisions relating to price redetermination.

§ 402.102 *General requirements for negotiation.* No contract shall be entered into as a result of negotiation unless or until the following requirements have been satisfied:

(a) The contemplated procurement comes within one of the circumstances permitting negotiation enumerated in Subpart B of this part;

(b) Any necessary determinations and findings prescribed in Subpart C of this part have been made; and

(c) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained.

§ 402.103 *Records and reports of negotiated contracts.* In addition to the records and reports required by the provisions of §§ 400.302-2, 402.211-4, and 402.216.4 of this subchapter, each Department shall maintain a record of the total value of all contracts negotiated by it during each fiscal year (beginning with that portion of the current fiscal year during which the act is effective) under each of the circumstances permitting negotiation enumerated in Subpart B of this part, and shall prepare an annual report thereon, as of the end of each fiscal year and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the Department of Defense for the preparation of a combined Armed Services report to be submitted to the President.

SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

§ 402.200 *Scope of subpart.* Subject to the limitations prescribed in Subpart A of this part, and pursuant to the authority of section 2 (c) of the act, procurement may be effected by negotiation, and contracts may be entered into as a result of negotiation without formal advertising, under any one of the circumstances set forth in the following sections of this subpart.

§ 402.201 *National emergency.*

§ 402.201-1 *Authorization.* Pursuant to the authority of section 2 (c) (1) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress.

§ 402.201-2 *Application.* This authority shall be used only to the extent determined by the Secretary concerned to be necessary in the public interest and then only in accordance with procedures prescribed by each respective Department.

§ 402.202 *Public exigency.*

§ 402.202-1 *Authorization.* Pursuant to the authority of section 2 (c) (2) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * the public exigency will not admit of the delay incident to advertising.

§ 402.202-2 *Application.* In order for this authority to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Supplies or services needed at once because of a fire, flood, explosion, or other disaster;

(b) Essential equipment for or repair to a ship when such equipment or repair

is needed at once for compliance with the orders of the ship;

(c) Essential equipment for or repair to aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft.

§ 402.202-3 *Limitation.* Every contract that is negotiated under the authority of §§ 402.202 to 402.203-3, inclusive, shall be accompanied by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with the copy of the contract negotiated and executed hereunder.

§ 402.203 *Purchases not in excess of \$1,000.*

§ 402.203-1 *Authorization.* Pursuant to the authority of section 2 (c) (3) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * the aggregate amount involved does not exceed \$1,000.

§ 402.203-2 *Application.* Purchases or contracts aggregating \$1,000 or less shall be made under §§ 402.203 to 402.203-2, inclusive, rather than under any other provision of this part. In arriving at "the aggregate amount involved," there must be included all supplies and services which would properly be grouped together in a single transaction, and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Purchases or contracts aggregating more than \$1,000 shall not be broken down into several purchases or contracts which are less than \$1,000, nor shall customary purchasing or contracting procedures be altered, merely for the purpose of permitting negotiation under §§ 402.203 to 402.203-2, inclusive.

§ 402.204 *Personal or professional services.*

§ 402.204-1 *Authorization.* Pursuant to the authority of section 2 (c) (4) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for personal or professional services.

§ 402.204-2 *Application.* This authority shall be used only when all of the following conditions have been satisfied:

(a) If personal services, they are required to be performed by an individual contractor in person (not by a firm), or if professional services they may be performed either by an individual contractor in person or a firm or organization;

(b) The services (1) are of a professional nature, or (2) are to be performed under Government supervision and paid for on a time basis;

(c) Procurement of the services is authorized by law, and is effected in accordance with the requirements of any such law and in accordance with procedures prescribed by each respective Department.

This authority, and the above conditions imposed upon its use, shall not ap-

ply to the procurement by negotiation of any type of services authorized under any other provision of this part.

§ 402.205 *Services of educational institutions.*

§ 402.205-1 *Authorization.* Pursuant to the authority of section 2 (c) (5) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for any service to be rendered by any university, college, or other educational institution.

§ 402.205-2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) Educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(b) Experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith;

(c) Analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

§ 402.206 *Purchases outside the United States.*

§ 402.206-1 *Authorization.* Pursuant to the authority of section 2 (c) (6) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * the supplies or services are to be procured and used outside the limits of the United States and its possessions.

§ 402.206-2 *Application.* This authority shall be used only for the procurement of supplies or services which are actually purchased and used outside the limits of the United States, its territories and possessions (irrespective of the actual place of negotiation or execution of the contract), such as supplies, construction or services for overseas installations or for the use of overseas forces.

§ 402.207 *Medicines or medical supplies.*

§ 402.207-1 *Authorization.* Pursuant to the authority of section 2 (c) (7) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for medicines or medical supplies.

§ 402.207-2 *Application.* This authority shall be used only when the following two requirements have been satisfied:

(a) Such supplies are peculiar to the field of medicine, and include technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but do not include prosthetic equipment; and

RULES AND REGULATIONS

(b) Whenever the probable cost of medicines or medical supplies purchased by negotiation under §§ 402.207 to 402.207-2, inclusive, will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given, with the form and extent of such publicity (which shall be given for a period of at least 15 days wherever practicable) to be determined in accordance with procedures prescribed by each respective Department.

§ 402.208 Supplies purchased for authorized resale.

§ 402.208-1 Authorization. Pursuant to the authority of section 2 (c) (8) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for supplies purchased for authorized resale.

§ 402.208-2 Application. This authority shall be used only for purchases for resale, where appropriated funds are involved, and ordinarily only for purchases of articles with brand names or of a proprietary nature as required by patrons of the selling activity. In any event, however, when the probable cost of such supplies will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given, with the form and extent of such publicity (which shall be given for a period of at least 15 days wherever practicable) to be determined in accordance with procedures prescribed by each respective Department.

§ 402.209 Perishable subsistence supplies.

§ 402.209-1 Authorization. Pursuant to the authority of section 2 (c) (9) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for perishable subsistence supplies.

§ 402.209-2 Application. This authority may be used for the purchase of any and all kinds of perishable subsistence.

§ 402.210 Supplies or services for which it is impracticable to secure competition by formal advertising.

§ 402.210-1 Authorization. Pursuant to the authority of section 2 (c) (10) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for supplies or services for which it is impracticable to secure competition.

§ 402.210-2 Application. The following are illustrative of circumstances with respect to which this authority may be used:

(a) When the supplies or services can be obtained from only one person or firm ("sole source of supply");

(b) When competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw material, or similar circumstances;

(c) When bids have been solicited pursuant to the requirements of Part 401 of this subchapter, and no responsive bid (a responsive bid is any bid which

conforms to the essential requirements of the solicitation of bids) has been received from a responsible bidder;

(d) When bids have been solicited pursuant to the requirements of Part 401 of this subchapter, and the responsive bid or bids do not cover the quantitative requirements of the solicitation of bids, in which case negotiation is permitted for the remaining requirements of the solicitation of bids;

(e) When the contemplated procurement is for electric power or energy, gas (natural or manufactured), water, or other utility services;

(f) When the contemplated procurement is for training film, motion picture productions, or manuscripts;

(g) When the contemplated procurement is for technical, non-personal services in connection with the assembly, installation, or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature;

(h) When the contemplated procurement is for studies or surveys covering industrial mobilization planning;

(i) When the contemplated procurement involves maintenance, repair, alterations or inspection, in connection with any one of which types of services the exact nature or amount of the work to be done is not known;

(j) When the contemplated procurement is for stevedoring, terminal, warehousing, or switching services, and when either the rates are established by law or regulation or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal solicitation of bids;

(k) When the contemplated procurement is for commercial ocean or air transportation, including time charters, space charters and voyage charters over trade routes not covered by common carriers (as to which, negotiation is authorized under the provisions of § 402.217 and section 321 of Part III of the Interstate Commerce Act of September 18, 1940, 49 U. S. Code 65), and including services for the operation of Government-owned vessels or aircraft;

(l) When the contract is for services related to the procurement of perishable subsistence such as protective storage, icing, processing, packaging, handling, and transportation whenever it is impracticable to advertise for such services a sufficient time in advance of the delivery of the perishable subsistence;

(m) When it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the required supplies or services.

§ 402.210-3 Limitation. The authority of §§ 402.210 to 402.210-3, inclusive, shall not be used when negotiation is authorized by the provisions of §§ 402.211, 402.212, 402.213, 402.214, 402.215, or 402.216. Every contract that is negotiated under the authority of §§ 402.210 to 402.210-3, inclusive, shall be accompanied by a signed statement of the Contracting Officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder.

§ 402.211 Experimental, developmental, or research work.

§ 402.211-1 Authorization. Pursuant to the authority of section 2 (c) (11) of the act, purchases and contracts may be negotiated without formal advertising if the Secretary—

* * * determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test.

Provided, That in the case of contracts for \$25,000 or less, the head of a procuring activity, signing as "a chief officer responsible for procurement," is authorized without power of redelegation to make the required determination.

§ 402.211-2 Application. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Contracts relating to theoretical analysis, exploratory studies, and experimentation in any field of science or technology;

(b) Developmental contracts calling for the practical application of investigative findings and theories of a scientific or technical nature;

(c) The purchase of such quantities and kinds of equipment, supplies, parts, accessories, or patent rights thereto, and drawings or designs thereof, as are necessary for experimentation, development, research, or test;

(d) Services, tests, and reports necessary or incidental to experimental, developmental, or research work.

This authority shall not be used for contracts for quantity production except that such quantities may be purchased hereunder as are necessary to permit complete and adequate experimentation, development, research or test; however, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production.

§ 402.211-3 Limitation. In order for this authority to be used, the required determination to be made by any Secretary (or, in the case of contracts for \$25,000 or less, by the head of any procuring activity signing as "a chief officer responsible for procurement") must be made in accordance with the requirements of Subpart C of this part.

§ 402.211-4 Records and reports. Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of §§ 402.211 to 402.211-4, inclusive, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder, and shall prepare a report thereon, at the end of the current fiscal year (covering that portion of the current fiscal year during which this subchapter is effective) and at the end of each six-month period thereafter, and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the Department of De-

fense for the preparation of a combined Armed Services report to be submitted semi-annually to the Congress.

§ 402.212 Classified purchases.

§ 402.212-1 *Authorization.* Pursuant to the authority of section 2 (c) (12) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for supplies or services as to which the Secretary determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed.

§ 402.212-2 *Application.* This authority shall be used only when military considerations necessitate security, and then only for such purchases or contracts as are classified confidential or higher.

§ 402.212-3 *Limitation.* In order for this authority to be used, the required determination to be made by any Secretary must be made in accordance with the requirements of Subpart C of this part.

§ 402.213 Technical equipment requiring standardization and interchangeability of parts.

§ 402.213-1 *Authorization.* Pursuant to the authority of section 2 (c) (13) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for equipment which the Secretary determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest.

§ 402.213-2 *Application.* This authority may be used for procuring additional units and replacement items of technical equipment and spare parts which have been standardized in accordance with procedures prescribed by each respective Department. This authority would apply, for example, whenever it is necessary—

(a) To limit the quantity of spare parts that must be carried in stock; or

(b) To make possible, by standardization, the availability of parts that may be interchanged among pieces of damaged equipment during combat or other emergency; or

(c) To procure from one supplier technical equipment which is available from a number of suppliers but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

§ 402.213-3 *Limitation.* This authority shall not be used for initial procurements of equipment and spare parts which will ultimately be standardized, or for the purpose of selecting arbitrarily the equipment of certain suppliers; nor shall it be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that—

(a) The supplies constitute technical equipment or component parts thereof; and

(b) Negotiation is necessary in order to assure standardization of the equipment and interchangeability of parts; and

(c) Such standardization and interchangeability is necessary in the public interest.

§ 402.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

§ 402.214-1 *Authorization.* Pursuant to the authority of section 2 (c) (14) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for supplies of a technical or specialized nature requiring a substantial initial investment or an extended period of preparation for manufacture, as determined by the Secretary, when he determines that advertising and competitive bidding may require duplication of investment or preparation already made, or will unduly delay procurement of such supplies.

§ 402.214-2 *Application.* This authority may be used for the procurement of technical or specialized supplies—for example: aircraft, tanks, radar, guided missiles, rockets, and similar items of equipment; major components of any of the foregoing; and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves—

(a) High starting costs which already have been paid for by the Government or by the supplier;

(b) Preliminary engineering and development work that would not be useful to or usable by any other supplier;

(c) Elaborate special tooling already acquired;

(d) Substantial time and effort already expended in developing a prototype or an initial production model; and

(e) Important design changes which will continue to be developed by the supplier.

The authority of §§ 402.214 to 402.214-3, inclusive, will in general be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling and equipment.

§ 402.214-3 *Limitation.* This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that—

(a) The supplies are of a technical or specialized nature requiring a substantial investment or an extended period of preparation for manufacture; and

(b) Procurement by formal advertising and competitive bidding either—

(1) May require duplication of investment or preparation already made, or

(2) Will unduly delay procurement.

§ 402.215 Negotiation after advertising.

§ 402.215-1 *Authorization.* Pursuant to the authority of section 2 (c) (15) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * for supplies or services as to which the Secretary determines that the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition.

§ 402.215-2 *Limitation.* This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that with respect to all or to some part of the requirements the bid prices, after formal advertising for such supplies or services, are not reasonable or have not been independently arrived at in open competition. However, after such determination by the Secretary, and after a rejection of such bids, no contract shall be negotiated under this authority unless—

(a) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by a Contracting Officer to each responsible bidder who has submitted a bid in response to the invitation for bids; and

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the Secretary; and

(c) The negotiated price is the lowest negotiated price offered by any responsible supplier.

Moreover, any evidence of bids not independently arrived at shall be forwarded to the Department of Justice, as provided in § 401.403 of this subchapter.

§ 402.216 Purchases in the interest of national defense or industrial mobilization.

§ 402.216-1 *Authorization.* Pursuant to the authority of section 2 (c) (16) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * the Secretary determines that it is in the interest of the national defense that any plant, mine, or facility or any producer, manufacturer, or other supplier be made or kept available for furnishing supplies or services in the event of a national emergency, or that the interest either of industrial mobilization in case of such an emergency, or of the national defense in maintaining active engineering, research and development, are otherwise subserved.

§ 402.216-2 *Application.* This authority may be used to effectuate such plans and programs as may be evolved under the direction of the Secretary of a Department to provide incentives to manufacturers to maintain, and keep active, engineering and design staffs and manufacturing facilities available for mass production. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Procurement by negotiation is necessary to keep vital facilities or suppliers in business; or to make them available in the event of a national emergency;

(b) Procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, or development work;

(c) Procurement by negotiation is necessary to maintain properly balanced sources of supply for meeting the requirements of procurement programs in the interest of industrial mobilization.

§ 402.216-3 Limitation. This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that—

(a) It is in the interest of national defense that a particular facility or supplier be made or kept available for furnishing supplies or services in the event of a national emergency, and procurement by negotiation is necessary to that end; or

(b) The interest of industrial mobilization, in the event of a national emergency, would be promoted by procurement by negotiation with such a supplier; or

(c) In maintaining active engineering, research, and development, the interest of the national defense would be promoted by procurement by negotiation with such a supplier.

§ 402.216-4 Records and reports. Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this §§ 402.216 to 402.216-4, inclusive, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder, and shall prepare a report thereon, at the end of the current fiscal year (covering that portion of the current fiscal year during which this subchapter is effective) and at the end of each six-month period thereafter, and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the Department of Defense for the preparation of a combined Armed Services report to be submitted semi-annually to the Congress.

§ 402.217 Otherwise authorized by law.

§ 402.712-1 Authorization. Pursuant to the authority of section 2 (c) (17) of the act, purchases and contracts may be negotiated without formal advertising if—

* * * otherwise authorized by law.

§ 402.217-2 Application. This authority shall be used only if and to the extent approved for any Department in accordance with procedures prescribed by that Department.

§ 402.218 Construction work.

§ 402.218-1 Authorization. As provided in section 2 (e) of the act, contracts for construction work may be negotiated without formal advertising if the following two requirements have been satisfied:

(a) The contract is for "the erection, repair, or furnishing of any public building or public improvement * * * or the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items"; and

(b) Either (1) "the contract is to be performed outside the continental United States" or (2) "negotiation of such contract is authorized by the provisions of paragraphs (1), (2), (3), (10), (11), (12), or (15) of subsection (c)" of section 2 of the act.

§ 402.218-2 Limitation. This authority shall be used only when the requirements set forth in the preceding § 402.218-1 have been satisfied, and when all provisions of any applicable paragraph of the act (as implemented and construed, in terms of policy, by the respective preceding sections of this subpart relating thereto) have been complied with.

SUBPART C—DETERMINATIONS AND FINDINGS

§ 402.300 Scope of subpart. This subpart (a) enumerates the particular determinations and findings to be made (1) by the Secretary of any Department, (2) by the head of any procuring activity signing as "a chief officer responsible for procurement," and (3) by a Contracting Officer; and (b) sets forth the requirements to be followed with respect to such determinations and findings.

§ 402.301 Nature of determinations and findings. The determinations and supporting findings that are referred to throughout this subchapter, usually as prerequisites to the authority of a procuring activity to enter into contracts by negotiation or to make advance payments under negotiated contracts, will in most instances be made by the Secretary of a Department. Such determinations and findings shall ordinarily be made only with respect to individual purchases or contracts, but may be made with respect to classes of purchases or contracts in special cases and then only for a specified period and in accordance with procedures prescribed by each respective Department. Certain determinations, as hereinafter provided, may be made by the head of a procuring activity signing as "a chief officer responsible for procurement" or by a Contracting Officer, but in either of these two cases only with respect to individual purchases or contracts.

§ 402.302 Determinations and findings by the Secretary of a Department. The following determinations, and written findings in support thereof, may be made only by the Secretary of a Department, and are not delegated hereunder except to the extent provided in § 402.303:

(a) The determination required by §§ 402.211 to 402.211-4, inclusive, with respect to any negotiated contract for experimental, developmental, or research work or for the manufacture or furnishing of supplies for experimentation, development, research, or test;

(b) The determination required by §§ 402.212 to 402.212-3, inclusive, with respect to any negotiated contract that should not be publicly disclosed;

(c) The determination required by §§ 402.213 to 402.213-3, inclusive, with respect to any negotiated contract for technical equipment requiring standardization and interchangeability of parts;

(d) The determination required by §§ 402.214 to 402.214-3, inclusive, with respect to any negotiated contract for technical or specialized supplies requiring a substantial initial investment or an extended period of preparation for manufacture;

(e) The determination required by §§ 402.215 to 402.215-2, inclusive, with respect to any negotiated contract entered into after advertising has proved unsatisfactory;

(f) The determination required by §§ 402.216 to 402.216-4, inclusive, with respect to any negotiated contract entered into in the interest of national defense or industrial mobilization;

(g) The determination required in Subpart E of this part with respect to advance payments under any negotiated contract.

In addition to the foregoing determinations, the Secretary of any Department may also make any of the determinations, and written findings in support thereof, that may be made by the head of any procuring activity signing as "a chief officer responsible for procurement" or by a Contracting Officer.

§ 402.303 Determinations and findings by the head of a procuring activity signing as "a chief officer responsible for procurement." The following determinations, and written findings in support thereof, may be made by the head of a procuring activity signing as "a chief officer responsible for procurement":

(a) The determination required by §§ 402.211 to 402.211-4, inclusive, with respect to any negotiated contract for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test: *Provided*, That such contract does not obligate the Government to pay more than \$25,000; and

(b) The determinations required by §§ 402.404 and 402.404-1, 402.405 and 402.405-1, and 402.406 to 402.406-2, inclusive, with respect to the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract.

§ 402.304 Determinations and findings by a contracting officer. To the extent that the authority has been or may be granted by procedures prescribed by each respective Department, the determinations required by §§ 402.404 and 402.404-1, 402.405 and 402.405-1, and 402.406 to 402.406-2, inclusive, with respect to the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract may be made by a Contracting Officer: *Provided*, That any such determination shall be based upon written findings made by the Contracting Officer. Any other determinations or findings called for by this subchapter, but not required by this subchapter to be made by higher authority, may be made by a Contracting Officer in accordance with procedures prescribed by each respective Department.

§ 402.305 *Forms of determinations and findings.* Each Determination and Findings—whether for (a) "Authority to Negotiate an Individual Contract," or (b) "Authority to Negotiate a Class of Contracts," or (c) "Advance Payments," or (d) "Method of Contracting," or (e) any other purpose—shall be prepared in accordance with procedures prescribed by each respective Department.

§ 402.306 *Procedure with respect to determinations and findings.* Each Determination and Findings shall be approved and processed in accordance with procedures prescribed by each respective Department.

§ 402.307 *Distribution and copies of determinations and findings.* Copies of each Determination and Findings shall be distributed in accordance with procedures prescribed by each respective Department: *Provided*, That one copy thereof with respect to (a) negotiated contracts (whether by individual contract or by class of contracts), (b) advance payments, and (c) the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract, shall be sent to the General Accounting Office with the copy of the contract negotiated and executed thereunder.

§ 402.308 *Retention of copies of determinations and findings, and of other records.* Executed originals of all determinations and findings, and copies of all supporting documents, shall be preserved in the cognizant procuring activity or in the Department concerned for six years following the date of each respective determination. Complete records with respect to all negotiated contracts shall be preserved in the cognizant procuring activity or in the Department concerned for a period of six years following final payment on each such respective contract.

SUBPART D—TYPES OF CONTRACTS

§ 402.400 *Scope of subpart.* This subpart (a) describes approved types of contracts authorized for procurement by negotiation, and (b) imposes conditions on the use of each type.

§ 402.401 *Authorized types of contracts.* Pursuant to the authority of section 4 of the act, contracts negotiated under this part may be of any type which will promote the best interests of the Government, except that under no circumstances shall the cost-plus-a-percentage-of-cost system of contracting be used, or allowed to be used for any subcontract under a Department contract. In accordance with the basic policy set forth in § 400.304 of this subchapter, the fixed-price type of contract shall be used for negotiated contracts unless conditions necessitate the use of some other type of contract; however, the cost or cost-plus-a-fixed-fee type of contract or the incentive-type of contract shall not be used except upon compliance with all of the applicable requirements of this subpart.

§ 402.402 *Fixed-price contract.* The fixed-price type of contract generally provides for a firm price or prices for the supplies or services which are being

procured. This type of contract is used when costs can be estimated with reasonable accuracy and a fair price negotiated. It may include provision for price escalation or adjustment.

§ 402.403 *Fixed-price contract with provision for redetermination of price.* This type of contract is a fixed-price contract with a special provision for redetermining upward or downward the price or prices in the contract. It is used to obtain reasonable prices whenever contingency charges otherwise would be included in a contract price due to such factors as prolonged delivery schedules, unstable market conditions for material or labor, or uncertainty as to cost of performance. By this type of contract, the Government assumes the risk of certain contingencies which a contractor would otherwise assume and would include in his contract price, and the contract price is ultimately redetermined only to the extent that such contingencies actually occur. This type of contract is also used to assure to the Government the benefits of reduced costs of performance. When a fixed-price contract contains a redetermination provision of the incentive type, it shall be deemed to be an incentive-type contract within the meaning of §§ 402.404 and 402.404-1.

§ 402.404 *Incentive-type contract.* The incentive-type contract may be of either a fixed-price or a cost-plus-a-fixed-fee nature, with a special provision for redetermination of the fixed price or fixed fee. It provides for a tentative base price or target price (called the "contract price") and a maximum price or maximum fee, with price or fee redetermination after completion of the contract for the purpose of establishing a final price or fee based on the contractor's actual costs plus a sliding scale of profit or fee which varies inversely with the cost but which in no event shall permit the final price or fee to exceed the maximum price or fee stated in the contract. Use of the incentive-type contract is usually restricted to instances when the procurement of supplies or services involves a reasonably long production run, when the contractor has an acceptable accounting system and adequate manufacturing experience, and when a reasonably close "contract price" can be negotiated.

§ 402.404-1 *Limitation on use of incentive-type contract.* The incentive-type contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that—

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 402.405 *Cost contract.* The cost (or cost-sharing) type of contract provides for payment to the contractor of allowable costs, to the extent prescribed in the contract, incurred in the performance of the contract. This type of contract establishes an estimate of the total cost for purposes of (a) obligating cur-

rent funds and (b) establishing a ceiling beyond which the contractor cannot go (except at his own expense) without prior approval of the Contracting Officer. It may provide for a predetermined fixed (or provisional) overhead rate, usually to be redetermined at stated intervals.

§ 402.405-1 *Limitation on use of cost contract.* The cost type of contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that—

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 402.406 *Cost-plus-a-fixed-fee contract.* The cost-plus-a-fixed-fee type of contract is similar to the cost contract in that it provides for payment to the contractor of all allowable costs as defined in the contract and establishes an estimate of the total cost. It differs from the cost contract in that it also provides for payment of a fixed fee based on the estimated cost of the contract. This fixed fee shall not vary with actual cost (except in the case of an incentive-type contract), but only with a change in the estimated cost as a result of a change in the scope of work under the contract. This type of contract may provide for a predetermined fixed (or provisional) overhead rate, usually to be redetermined at stated intervals.

§ 402.406-1 *Limitation on use of cost-plus-a-fixed-fee contract.* The cost-plus-a-fixed-fee type of contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that—

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 402.406-2 *Limitations on fixed fee.* The fixed fee shall be negotiated by the parties, but shall not exceed (except to the extent approved by the Secretary of the Department concerned within the limits imposed by section 4 (b) of the act) either (a) ten per centum (10%) of the estimated cost, exclusive of fee, of any contract for experimental, developmental, or research work or (b) seven per centum (7%) of the estimated cost, exclusive of fee, of any other contract. In a cost-plus-a-fixed-fee contract for architectural or engineering services relating to any public work or utility project, there is authorized for such services a fixed fee which, together with the costs of such services, shall not exceed six per centum (6%) of the estimated cost of such project (exclusive of the fixed fee for the project).

§ 402.407 *Time and materials contract.* The time and materials type of contract provides for the purchase of supplies or services on the basis of (a) direct labor hours at specified hourly rates (which rates include direct labor,

overhead, and profit) and (b) material at cost. This type of contract shall not be used if any other type of contract is equally advantageous to the Government. Representative situations where this type of contract might be used are contracts for engineering and design services in connection with the production of supplies, contracts for repair, maintenance, or overhaul, and contracts for the production of supplies in special cases of emergency.

§ 402.408 Letter contract or letter of intent. A letter contract or letter of intent is a preliminary contract with or without a tentative price or specific amount agreed to therein, and with such other basic terms set forth therein as can be agreed to at that time. It authorizes the contractor to commence work, incur costs, and make commitments pending negotiation and execution of the final definitive contract. It obligates the Government either to make a final definitive contract within a specified time or to reimburse the contractor for costs incurred under the letter contract or letter of intent. This type of contract shall be used, subject to such approval as is required by the procedures of each respective Department, only when one of the following conditions exists:

(a) When it is essential to give to the contractor a binding commitment in order to permit him to commence work immediately; or

(b) When the nature of the work involved prevents the preparation of definitive requirements or specifications, thereby making it impossible to negotiate a final contract at that time.

The letter contract or letter of intent shall be superseded as soon as possible by a final definitive contract.

§ 402.409 Other types of contracts. In addition to the types of contracts described in §§ 402.401 to 402.408, inclusive, contracts may be of any type or nature referred to in the definition of "contracts" in § 400.201-6 of this subchapter, and also may be of the call type, open-end type, or indefinite quantity type.

§ 402.410 Books and records of cost-type contractors. Pursuant to the authority of section 4 (b) of the act, any procuring activity, through any authorized representative thereof, shall have the right to inspect the plants and to audit the books of any prime contractor or subcontractor engaged in the performance of a cost or a cost-plus-a-fixed-fee contract. This authority is in addition to any other right of inspection or audit conferred by statute.

§ 402.411 Contract forms and provisions. The forms and provisions of contracts shall conform to the requirements of law, of this subchapter, and of procedures prescribed by each respective Department. However, all cost and cost-plus-a-fixed-fee contracts shall provide for advance notification by the contractor to the procuring activity, or to the Department concerned, of any subcontract thereunder on a cost-plus-a-fixed-fee basis and of any fixed-price subcon-

tract or purchase order which exceeds in dollar amount either \$25,000 or five per centum (5%) of the total estimated cost of the prime contract.

SUBPART E—ADVANCE PAYMENTS

§ 402.500 Scope of subpart. This subpart sets forth (a) the nature of advance payments, (b) the authority for making advance payments, and (c) the limitations on such authority.

§ 402.501 Nature of advance payments. Advance payments shall be deemed to be payments made by the Government to a contractor in the form of loans or advances prior to and in anticipation of complete performance under a contract. Advance payments are to be distinguished from "partial payments" and "progress payments" and other payments made because of performance or part performance of a contract.

§ 402.502 Authority to make advance payments. Pursuant to the authority of section 5 of the act, advance payments may be made under negotiated contracts executed before or after the effective date of this regulation in any amount not exceeding the contract price and upon such terms as the parties shall agree: *Provided:*

(a) Adequate security for such advance payments is obtained;

(b) Provision for advance payments is in the public interest or in the interest of national defense, as determined by the Secretary of a Department in accordance with the requirements of Subpart C of this part; and

(c) Provision for advance payments is necessary and appropriate in order to procure the required supplies or services, as determined by the Secretary of a Department in accordance with the requirements of Subpart C of this part.

§ 402.503 Limitations on authority to make advance payments. Advance payments shall not be authorized unless all of the following requirements are satisfied:

(a) No other contractor is available to furnish the desired supplies or services, upon terms satisfactory to the Department, without provision for advance payments;

(b) Except for non-profit research and development contracts with educational institutions, no other means of adequate financing is available to the contractor;

(c) The amount of the authorization is predicated upon use of the contractor's own working capital to the extent possible.

§ 402.504 Security provisions. The advance payment agreement should provide for deposit of all payments into special bank accounts and should include suitable covenants to protect the Government's interest. Advance payments under such authorizations should be limited to the contractor's financial needs, and withdrawals from the special bank accounts provided therefor should be closely supervised. The terms governing advance payments may include as security, in addition to or in lieu of the requirements for an advance payment

bond, provision for a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited, and upon such of the material and other property acquired for performance of the contract as the parties shall agree.

§ 402.505 Interest on advance payments. Whenever an advance payment is made to a contractor, interest will be charged (usually at the rate of 2½ percent per annum on the unliquidated balance), except that advance payments may be made without interest in either of the following situations:

(a) Advance payments authorized in connection with contracts which provide for performance at cost, or without profit or fee to the contractor; or

(b) Advance payments to be made without interest as authorized by the Secretary of a Department.

PART 403—COORDINATED PROCUREMENT

Sec.	
403.000	Scope of part.
403.001	Coordinated procurement of items in short supply.

SUBPART A—SINGLE DEPARTMENT PROCUREMENT

403.100	Scope of subpart.
403.101	Definitions.
403.102	Execution and administration of contracts.
403.103	Specifications.
403.104	Funds and payments.
403.105	Inspection.
403.106	Transportation of materials.
403.107	Transfer of uncompleted contracts.
403.107-1	Effect of assignment of procurement responsibility.
403.107-2	Disputes under transferred contracts.
403.107-3	Contracting Officers under transferred contracts.
403.108	Administrative costs.
403.109	Preparation of procurement requests.

SUBPART B—ARMED SERVICES PETROLEUM PURCHASING AGENCY

403.200	Scope of subpart.
403.201	Procurement responsibility of petroleum purchasing agency.
403.202	Organization of agency.
403.203	Functions.
403.204	Notification to Departments.
403.205	Applicability of regulation and department procedures.

SUBPART C—ARMED SERVICES MEDICAL PROCUREMENT AGENCY

403.300	Scope of subpart.
403.301	Procurement responsibility of Medical Procurement Agency.
403.302	Organization of Agency.
403.303	Functions.
403.304	Notification to Departments.
403.305	Applicability of regulation and Department procedures.

AUTHORITY: §§ 403.000 to 403.305 Issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161.

§ 403.000 Scope of part. This part sets forth, on the basis of the provisions of and authority contained in section 10 of the act, and in accordance with provisions of the National Security Act of 1947 (5 U. S. Code 171-172j), as amended, the basic policies and requirements relating to the coordinated procurement

of supplies and services. The different types of coordinated procurement are the following:

(a) "Single Department Procurement," whereby one Department purchases certain supplies or services for another Department;

(b) "Joint Procurement," whereby a jointly staffed and financed procuring activity purchases certain supplies or services for the three Departments; and

(c) "Collaborative Procurement," whereby procuring activities of more than one Department occupy offices in the same area but make separate contracts, the objective being to center in one place geographically all procurement of similar supplies or services.

§ 403.001 *Coordinated procurement of items in short supply.* Whenever there exists a shortage in supplies or services, the matter shall be referred by the head of a procuring activity to the appropriate authority within his Department, whereupon the latter shall immediately confer with the corresponding authority in each of the other Departments in an effort to solve the problem.

SUBPART A—SINGLE DEPARTMENT PROCUREMENT

§ 403.100 *Scope of subpart.* This subpart deals with the procurement of supplies or services by one Department for another Department pursuant to either (a) agreement between the Departments concerned, or (b) assignment of procurement responsibility by the Munitions Board. However, the provisions of Subpart D of Part 404 of this subchapter shall govern (a) the transfer of supplies from the stocks of one Department to another Department, and (b) work performed by one Department for another Department.

§ 403.101 *Definitions.* As used in this subpart, "Requiring Department" is the Department originating a requisition or procurement request for supplies or services to be purchased by another Department; and "Purchasing Department" is the Department which is assigned the purchase responsibility for certain supplies and services, and which makes contracts for such supplies and services to satisfy its own requirements and the requirements of another Department.

§ 403.102 *Execution and administration of contracts.* Purchases for each Department will generally be covered by separate contracts. However, when economy or more efficient procurement would result, the Purchasing Department may combine in a single contract the requirements of all the Departments, with the quantities of each item for each Department being shown separately and being clearly identified as to the proper appropriation or fund to be charged. The procurement of the supplies or services and the preparation, execution, and administration of contracts shall be in accordance with the provisions of this subchapter and with procedures prescribed by the Purchasing Department. Distribution of documents shall be made by the Purchasing Department as specified by the Requiring Department. Contracts will be numbered in the regu-

lar contract number series of the procuring activity of the Purchasing Department. The Purchasing Department will allocate among the Departments on an equitable basis the supplies and services purchased, taking into consideration prices, quantities available, and delivery schedules.

§ 403.103 *Specifications.* The Purchasing Department shall have the following responsibilities in connection with specifications:

(a) Obtaining from the Requiring Department a list of (or copies of) specifications used in the assigned field;

(b) Reviewing the specifications to determine those which are of such interest that Military or Federal specifications should be prepared;

(c) Taking action to have initiated Military or Federal specifications projects;

(d) Acting as custodian of Military specifications in assigned fields.

§ 403.104 *Funds and payments.* Each requisition or procurement request forwarded by the Requiring Department to the Purchasing Department will show the appropriation or fund of the Requiring Department under which the contract is to be drawn. The signature of the officer approving the requisition or procurement request for the Requiring Department will be considered as establishing conclusively that the purchase is authorized under the appropriation or fund cited and that the amount stated has been committed for the purpose of meeting payments on the contract, as and when accruing. The amount shown in the requisition or procurement request will be the Requiring Department's best estimate of the cost of the supplies and services to be purchased. The Purchasing Department is authorized, without further approval of the Requiring Department, to make a contract for a total sum, including all contingent amounts for variation in quantity and price, not in excess of the amount estimated by the Requiring Department plus 10 percent, unless otherwise specified in the requisition or procurement request. The Purchasing Department will make no amendment increasing the total dollar amount of a contract without prior approval of the Requiring Department: *Provided, however,* That such prior approval shall not be required for amendments establishing the amount of adjustments required by the terms of the contract as executed or previously amended. In every instance, the contract will establish an obligation and provide for payment under an appropriation or fund of the Requiring Department: *Provided,* That this requirement is not to be construed as changing the established concept of obligation of funds. Each Department will provide the other Departments with a list of its disbursing offices and with the requirements governing the submission of invoices and the designation of paying offices. The Purchasing Department will comply with such requirements of the Requiring Department by including in the contract appropriate invoicing and payment instructions. The Requiring Department will include on the requisition or procurement request appropriate accounting data ordinarily shown in contracts of the Requiring Department, and such data will be included in the contract issued by the Purchasing Department.

tion or procurement request appropriate accounting data ordinarily shown in contracts of the Requiring Department, and such data will be included in the contract issued by the Purchasing Department.

§ 403.105 *Inspection.* Inspection of supplies at place of manufacture or prior to shipment will generally be made by inspectors of the Purchasing Department. However, this general rule shall not be construed to preclude the utilization of the inspectors of the Requiring Department when they are located at or otherwise servicing the contractor's plant.

§ 403.106 *Transportation of materials.* Every requisition or procurement request will show the appropriation or fund and accounting classification chargeable for such transportation costs as may be incurred in effecting delivery at Government expense. Government bills of lading will generally be issued by the Purchasing Department. In every instance the Government bill of lading will show (a) the Requiring Department as the Department to be billed, and (b) the appropriation or fund designated by that Department as the appropriation chargeable. Where Government bills of lading of the Purchasing Department are used to cover shipment of supplies consigned to the Requiring Department, the bill of lading number will be prefixed by the name of the Requiring Department.

§ 403.107 *Transfer of uncompleted contracts.*

§ 403.107-1 *Effect of assignment of procurement responsibility.* As a general rule, when the procurement responsibility for a commodity or class of commodities is assigned to one Department, uncompleted contracts of any other Department for any such commodity or class of commodities will not be transferred, but will continue to be administered for all purposes by such other Department.

§ 403.107-2 *Disputes under transferred contracts.* In the case of any contract transferred, or to be transferred, from one Department to another Department, which contract refers to either the Navy Department Board of Contract Appeals or the Army Board of Contract Appeals, the contract should be amended to provide that the Armed Services Board of Contract Appeals will hear and decide all disputes concerning questions of fact which are appealed pursuant to the "Disputes" clause of such transferred contract.

§ 403.107-3 *Contracting officers under transferred contracts.* In the case of any contract transferred, or to be transferred, to any Department, the successor to the Contracting Officer for each such contract shall be the head of the procuring activity (or any Contracting Officer thereof) to which the administration of any such contract is assigned, and any such successor shall have all of the rights and responsibilities of a Contracting Officer under such transferred contract.

§ 403.108 *Administrative costs.* The Purchasing Department will bear, without reimbursement therefor, (a) the ad-

ministrative costs incidental to its procurement of supplies and services for another Department; and (b) the cost of such inspection as it may perform in connection therewith. However, when a procurement responsibility is transferred from one Department to another Department, funds appropriated or to be appropriated for defraying the administrative costs of such procurement responsibility shall be made available to the Purchasing Department by transfer or otherwise as appropriate and desired by the Purchasing Department; but the Department to which the procurement responsibility is transferred will assume budget cognizance at the earliest possible date.

§ 403.109 Preparation of procurement requests. Requisitions or procurement requests for supplies or services to be purchased by another Department should contain substantially the following information and any other information required by procedures prescribed by the Requiring Department or by the Purchasing Department:

(a) Description (including all identifying data), quantity, and estimated price of supplies or services to be purchased;

(b) Any permitted variation in the amount which the Purchasing Department is authorized to obligate, as referred to in § 403.104;

(c) Time, place, and method of delivery;

(d) Place, method, and conditions of inspection (whether by inspectors of Purchasing Department or Requiring Department or both);

(e) Shipping, packaging, packing, and marking instructions;

(f) Requisition (or other purchase authority), appropriation, allotment, and accounting data with respect to purchase price and transportation costs;

(g) Invoice and payment instructions;

(h) Contract identification, and instructions as to special provisions to be included in the contract;

(i) Distribution of copies of resulting contracts and shipping documents or receiving reports;

(j) Certification of funds by a fiscal office or division.

SUBPART B—ARMED SERVICES PETROLEUM PURCHASING AGENCY

§ 403.200 Scope of subpart. This subpart deals with joint procurement by the Armed Services Petroleum Purchasing Agency, and prescribes general policies governing the operation of that Agency.

§ 403.201 Procurement responsibility of Petroleum Purchasing Agency. The Armed Services Petroleum Purchasing Agency (referred to in this subpart as the "ASPPA") is established as a joint agency of the Departments of the Army, Navy, and Air Force pursuant to the authority of section 10 of the act. In accordance with planning and coordinating directives of the Munitions Board Petroleum Committee, the ASPPA shall be responsible for all procurement of petroleum and petroleum products (referred to in this subpart as "petroleum items") and such other supplies and

services as may be assigned to it from time to time.

§ 403.202 Organization of Agency. The functions of the ASPPA shall be supervised by The Quartermaster General of the Army, the Chief of the Bureau of Supplies and Accounts of the Navy, and the Director of Maintenance, Supply, and Services of the Air Force, each of which shall serve successively as Chairman for a two-year term. An Executive Officer shall be selected in rotation from the three Departments to serve for a term of two years; he shall conduct the business of the ASPPA as "head of a procuring activity," and shall perform such other services as may be assigned.

§ 403.203 Functions. In carrying out its responsibility for the procurement of petroleum items, the ASPPA, within the limits of allotments of appropriations made available for such purpose by each of the Departments, and in accordance with requirements established by the Departments and priorities established for each Department by the Munitions Board Petroleum Committee under the guidance of the Joint Chiefs of Staff, shall perform the following functions:

(a) Consolidate the established requirements of the three Departments;

(b) Procure petroleum items by means of formal advertising or negotiation, in accordance with the requirements of Parts 401 and 402 of this subchapter, respectively;

(c) Supervise the administration and performance of contracts, and for this purpose shall arrange for inspections and audits, utilizing such facilities and services of the Departments as may be made available therefor;

(d) Consolidate transportation requirements and arrange for delivery to storage or to installations through the appropriate office of the Department involved in transportation, but without having any responsibility for operational control of transportation facilities; and

(e) Coordinate joint bulk storage by the three Departments.

§ 403.204 Notification to Departments. The ASPPA shall advise the three Departments with reference to the scheduling of their petroleum items requirements, and shall render such information, reports and recommendations as may be requested or desirable to interested agencies in the Department of Defense in connection with matters arising in the course of procurement of petroleum items, such as short supply, changes in specifications, practices, improvements in storage, distribution and transportation facilities, and imbalances between purchases, transportation, and storage.

§ 403.205 Applicability of regulation and Department procedures. All procurement by the ASPPA shall be effected in accordance with the requirements of this subchapter and the procedures prescribed by that Department selected from time to time by the Munitions Board Petroleum Committee. For such purposes in general, and in particular for purposes of (a) determinations and findings, (b) contract clearance, (c) de-

viations, (d) reports, and (e) contract appeals, the ASPPA shall be considered a procuring activity of the selected Department. As such a procuring activity, the ASPPA shall have the same independence of operation as the technical services of the Army, the Bureau of the Navy, or the Air Materiel Command of the Air Force, depending on the Department under which the ASPPA is operating, and shall have all the powers and privileges with respect to contract forms and other matters as are accorded to a procuring activity by the Armed Services procurement regulation and the procedures prescribed by that Department under which the ASPPA is operating.

SUBPART C—ARMED SERVICES MEDICAL PROCUREMENT AGENCY

§ 403.300 Scope of subpart. This subpart deals with joint procurement by the Armed Services Medical Procurement Agency and prescribes general policies governing the operation of that Agency.

§ 403.301 Procurement responsibility of Medical Procurement Agency. The Armed Services Medical Procurement Agency (referred to in this subpart as the "ASMPA") is established as a joint agency of the Departments of the Army, Navy, and Air Force pursuant to the authority of section 10 of the act. In accordance with directives of its Directorate, consisting of the Surgeons General of the Army, the Navy and the Air Force, the ASMPA shall be responsible for central procurement of medicines and medical, surgical, hospital, dental, and veterinary supplies (referred to in this subpart as "medical items") and such other supplies and services as may be assigned to it from time to time.

§ 403.302 Organization of Agency. The functions of the ASMPA shall be directed by a Chief, who shall be selected from one of the three Departments by the Directorate. There shall also be a Deputy Chief, similarly selected, but of a Department other than that of the Chief. The Chief shall conduct the business of the ASMPA as "head of a procuring activity" and shall perform such other services as may be assigned.

§ 403.303 Functions. In carrying out its responsibility for the central procurement of medical items, the ASMPA, within the limits of allotments of appropriations made available for such purpose by each of the Departments, and in accordance with requirements established by the Departments and the Directorate, shall perform the following functions:

(a) Procure medical items (in accordance with the consolidated requirements of the three Departments) by means of formal advertising or negotiation, in accordance with the requirements of Parts 401 and 402 of this subchapter, respectively;

(b) Supervise the administration and performance of contracts, and for this purpose shall arrange for inspections and audits, utilizing such facilities and services of the Departments as may be made available therefor; and

(c) Consolidate transportation requirements and arrange for delivery to

storage or to installations through the appropriate office of the Department involved in transportation but without having any responsibility for operational control of transportation facilities.

In addition to its procurement responsibility, the ASMPA shall perform such other functions as may be assigned to it by competent authority.

§ 403.304 Notification to Departments. The ASMPA shall advise the three Departments with reference to the scheduling of their medical items requirements, and shall render such information, reports and recommendations as may be requested or desirable to interested agencies in the Department of Defense in connection with matters arising in the course of procurement of medical items, such as short supply, changes in specifications, and practices.

§ 403.305 Applicability of regulation and Department procedures. All procurement by the ASMPA shall be effected in accordance with the requirements of this subchapter and the procedures prescribed by the Department of the Army. However, the ASMPA is a joint agency of the Departments of the Army, Navy, and Air Force for the central procurement of medical items, notwithstanding the fact that, for the purposes of this subchapter and procedures thereunder, the ASMPA shall be considered a procuring activity of the Department of the Army.

PART 404—INTERDEPARTMENTAL PROCUREMENT

Sec.

404.000 Scope of part.

SUBPART A—PROCUREMENT FROM OR UNDER CONTRACTS OF FEDERAL SUPPLY SERVICE

404.101 Statement of policy.

404.102 Orders under contracts of Federal Supply Service.

404.103 Procurement from supply centers of Federal Supply Service.

404.104 Use of Stock Catalog, Federal Supply Service, Washington, D. C.

SUBPART B—PROCUREMENT OF PRINTING AND RELATED SUPPLIES

404.201 Printing and related supplies.

SUBPART C—PROCUREMENT OF PRISON-MADE AND BLIND-MADE PRODUCTS

404.301 Prison-made products.

404.302 Blind-made products.

SUBPART D—PROCUREMENT UNDER THE ECONOMY ACT FROM OR THROUGH ANOTHER FEDERAL AGENCY

404.400 Scope of subpart.

404.401 Authorization and policy relating to placing and filling orders.

404.402 Determination of amount and method of payment.

AUTHORITY: §§ 404.000 to 404.402 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161.

§ 404.000 Scope of part. This part deals with the procurement of supplies and services by any Government department or agency from or through any other Government department or agency, with the exception of procurement of supplies or services purchased under the authority of Part 403 of this subchapter, Coordinated Procurement.

SUBPART A—PROCUREMENT FROM OR UNDER CONTRACTS OF FEDERAL SUPPLY SERVICE

§ 404.101 Statement of policy. In the procurement of supplies or services which are covered by contracts made by the Federal Supply Service, General Services Administration, it shall be the policy of each Department, in accordance with requirements and procedures prescribed by it, to utilize to the fullest extent practicable the "Federal Supply Schedule" of such Service.

§ 404.102 Orders under contracts of Federal Supply Service. Orders issued under contracts of the Federal Supply Service shall contain sufficient data to enable prompt identification of the correct listing in the proper Federal Supply Schedule.

§ 404.103 Procurement from supply centers of Federal Supply Service. Each Department is authorized, in accordance with procedures prescribed by it, to procure from supply centers established by the Federal Supply Service in major cities throughout the United States any supplies or services available from any such supply center. Stock catalogs issued by each supply center list items which are regularly available for issue and contain instructions relative to the use of the catalogs as well as the submission of delivery orders to the supply center.

§ 404.104 Use of stock catalog, Federal Supply Service, Washington, D. C. It shall be the policy of each Department to avoid, to the extent practicable, placing orders under the Stock Catalog of the Federal Supply Service for items stocked in its Washington warehouse when shipment is to be made outside the District of Columbia or adjacent counties of Maryland and Virginia.

SUBPART B—PROCUREMENT OF PRINTING AND RELATED SUPPLIES

§ 404.201 Printing and related supplies. Printing, binding, and blankbook work, and envelopes, paper, and related supplies, shall be procured in accordance with (a) regulations of the Congressional Joint Committee on Printing, and (b) procedures prescribed by each respective Department.

SUBPART C—PROCUREMENT OF PRISON-MADE AND BLIND-MADE PRODUCTS

§ 404.301 Prison-made products. Procurement of supplies manufactured by Federal penitentiaries shall be made to the extent that such supplies are available. General clearances have been granted each Department to procure from commercial sources certain supplies listed in the Schedule of Products issued by Federal Prison Industries, Inc. A special clearance must be obtained from Federal Prison Industries, Inc., c/o the Department of Justice, for the procurement from commercial sources of any supplies listed on such schedule and not covered by a general clearance.

§ 404.302 Blind-made products. Supplies listed in the Schedule of Blind-Made Products issued by the Federal Supply Service, General Services Administration, shall be procured from non-profit-making agencies for the

blind at the prices determined by the Committee on Purchases of Blind-Made Products. The Federal Supply Service may grant a special clearance to procure from commercial sources supplies listed in the Schedule of Blind-Made Products (a) when necessary to meet emergency requirements, or (b) when no agency for the blind is in a position to furnish the required supplies. In addition, procurement of any such listed supplies from commercial sources is authorized without obtaining a special clearance in the case of (a) military necessity requiring delivery within two weeks, (b) procurement of a single unit as listed on such Schedule, or (c) supplies to be used outside the continental United States. Where supplies manufactured by non-profit-making agencies for the blind are similar to those manufactured in Federal penitentiaries, priority of procurement shall be given to the Federal Prison Industries, Inc.

SUBPART D—PROCUREMENT UNDER THE ECONOMY ACT FROM OR THROUGH ANOTHER FEDERAL AGENCY

§ 404.400 Scope of subpart. This subpart deals with orders for supplies or services placed with another Government department or agency pursuant to the authority of the Economy Act of June 30, 1932, as amended (31 U. S. Code 686), except that it does not apply to any procurement covered by Subparts A, B, or C of this part. Orders for supplies and services placed within a Department shall be in accordance with procedures prescribed by that Department.

§ 404.401 Authorization and policy relating to placing and filling orders. Each procuring activity, when it is in the interest of the Government to do so, may place orders with any other Government department or agency for supplies or services that any such requisitioned department or agency may be in a position to furnish or perform or to obtain by contract. Generally, an order for supplies or services will not be placed with a department or agency which is not in a position to furnish the supplies or is not equipped to perform the services, except that an order may be filled by means of outside contract with a commercial source of supply if the order is placed by any one of the following Government departments or agencies: Department of the Army, Department of the Navy, Department of the Air Force, Department of the Treasury, Civil Aeronautics Administration, and Maritime Commission. An order for services shall not be placed with a department or agency when such services can be performed as conveniently or more cheaply by private contractors.

§ 404.402 Determination of amount and method of payment. Upon the written request of the requisitioned department or agency, an advance by check shall be made of all or part of the estimated cost of furnishing the supplies or services as specified by such requisitioned department or agency: *Provided*, That where an advance is made, proper adjustments of the basis of the actual cost of the supplies or services shall be made as may be agreed upon by the de-

partments or agencies concerned. Subject to approval by the requisitioned department or agency, payment by check may be made after the furnishing of the supplies or services. The amount to be paid shall be based on the actual cost of the supplies or services as may be agreed upon by the departments or agencies concerned.

PART 405—FOREIGN PURCHASES

Sec.

405.000 Scope of part.

SUBPART A—BUY AMERICAN ACT AND OTHER STATUTORY PROHIBITIONS ON FOREIGN PURCHASES

- 405.101 Statutory prohibitions.
- 405.102 Prohibitions of Buy American Act.
- 405.103 Applicability of Buy American Act.
- 405.103-1 Kinds of supplies.
- 405.103-2 Origin of supplies used in manufactured supplies.
- 405.103-3 Geographical application.
- 405.103-4 Nonavailability of supplies or materials.
- 405.104 Authority to grant exceptions to Buy American Act.
- 405.105 Supplies excepted from Buy American Act.
- 405.105-1 Exceptions based on unreasonable cost.
- 405.106 Other statutory prohibitions on foreign purchases.
- 405.106-1 Prohibition of annual appropriation acts.
- 405.107 References in contractual documents.
- 405.108 Violation of Buy American Act provision in construction contracts.
- 405.109 Armed Services List of Supplies Excepted From Buy American Act.

SUBPART B—CANADIAN PURCHASES

- 405.201 Purchases from Canadian suppliers.
- 405.202 Guarantee by Canadian Government.

SUBPART C—DUTY AND CUSTOMS

- 405.301 Purchases of war material abroad.
- 405.301-1 Entry certificate.
- 405.302 Nature of war material.
- 405.303 Nature of emergency purchases.
- 405.304 Customs duties and drawbacks.

AUTHORITY: §§ 405.000 to 405.304 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161.

§ 405.000 *Scope of part.* This part deals with (a) statutory prohibitions on foreign purchases, (b) purchases from Canadian sources, and (c) duty and customs.

SUBPART A—BUY AMERICAN ACT AND OTHER STATUTORY PROHIBITIONS ON FOREIGN PURCHASES

§ 405.101 *Statutory prohibitions.* Each Department, in connection with the procurement of supplies and in connection with construction work, shall comply with the provisions of the Buy American Act (41 U. S. Code 10a-d) and with such other prohibitions on foreign purchases as may be contained in annual appropriation acts or in acts authorizing appropriations.

§ 405.102 *Prohibitions of Buy American Act.* The Buy American Act prohibits, within terms of its applicability and subject to the authority to grant certain exceptions (set forth in §§ 405.

103 and 405.104, respectively), the acquisition for public use by any Department, or the use in connection with the performance of any Department contract for the construction, alteration, or repair of any public building or public work, of (a) unmanufactured supplies unless mined or produced in the United States, and (b) manufactured supplies unless manufactured in the United States substantially all from supplies mined, produced, or manufactured in the United States.

§ 405.103 *Applicability of Buy American Act.*

§ 405.103-1 *Kinds of supplies.* The Buy American Act applies to raw materials and manufactured products. However, in the case of manufactured products, the Buy American Act applies to the end product itself and to the components directly furnished for that end product, but does not apply to supplies that are used in the manufacture of any such component; for example, in the procurement of clothing, the law would apply to the clothing itself and to the cloth used in the manufacture of such clothing, but would not apply to the yarn used in the manufacture of the cloth. It has been expressly held by the Comptroller General that the Buy American Act does not apply to the procurement of books, periodicals, magazines, newspapers, or the printing of briefs.

§ 405.103-2 *Origin of supplies used in manufactured supplies.* The prohibitions of the Buy American Act do not apply to supplies manufactured in the United States when such supplies are manufactured "substantially all" from supplies mined, produced, or manufactured in the United States. Supplies shall be considered to be manufactured "substantially all" from United States supplies whenever the cost of foreign supplies used in such manufacture constitutes 25 percent or less of the cost of all supplies used in such manufacture. In this connection, suppliers shall accompany their bids or quotations contemplating the furnishing or use of foreign supplies (not excepted pursuant to § 405.105) with a certificate substantially as follows:

Not to exceed ----- percent in cost of the materials, used directly in the manufacture of the supplies offered, is of foreign origin.

Any supplies of an unknown origin used in such manufacture shall be considered to be foreign supplies.

§ 405.103-3 *Geographical application.* The Buy American Act applies only to (a) supplies for public use within the United States and (b) construction work on public buildings or public works within the United States. As used in the Buy American Act and in this section, the term "United States" includes the United States, its territories and possessions.

§ 405.103-4 *Nonavailability of supplies or materials.* The Buy American Act does not apply (a) to supplies which are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably avail-

able commercial quantities and of a satisfactory quality, or (b) to such materials, from which the supplies to be used are manufactured, as are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, except that this does not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. This § 405.103-4 shall be applied and used only in accordance with procedures prescribed by each respective Department.

§ 405.104 *Authority to grant exceptions to Buy American Act.* The Secretary of each Department is authorized by the Buy American Act to grant exceptions thereto when application of the Buy American Act—

(a) Would be inconsistent with the public interest, or

(b) Would unreasonably increase the cost, or

(c) In connection with construction or repair work, would be impracticable or would unreasonably increase the cost:

Provided, That in the case of supplies to be used in construction or repair work, any exception granted under this section shall be noted in the specifications and a public record made of the supporting findings.

§ 405.105 *Supplies excepted from Buy American Act.* The Secretaries of the three Departments have administratively determined, in accordance with the provisions of §§ 405.103-4 and 405.104, that the following supplies may be procured or used by any Department without regard to the country of origin:

(a) The articles, materials, and supplies listed at the end of this subpart; and

(b) Articles, materials, and supplies manufactured in the United States notwithstanding the fact that there is used in such manufacture any of the articles, materials, or supplies listed in § 405.109.

§ 405.105-1 *Exceptions based on unreasonable cost.* It has also been administratively determined by the Secretaries of the three Departments, in accordance with the provisions of § 405.104, that the cost would be unreasonable, and that therefore the prohibitions of the Buy American Act would not apply, when the lowest net cost of United States supplies exceeds the lowest net cost of foreign supplies, including duty, by 25 percent or more (100 percent in the case of foreign supplies costing \$100 or less). However, in any case involving a differential of less than 25 percent, where the Contracting Officer, because of the amount involved, considers the differential to be unreasonable, he may submit the matter for consideration to the Secretary of the Department concerned; and shall in any case submit the matter for such consideration when the differential is more than \$5,000 but less than 25 percent.

§ 405.106 *Other statutory prohibitions on foreign purchases.*

§ 405.106-1 *Prohibition of annual appropriation acts.* Annual appropriation acts for the Departments of the Army, Navy, and Air Force customarily prohibit the use of any funds, appropriated by such acts, for the procurement of any article of food or clothing not grown or produced in the United States, its territories or its possessions. Such acts have usually provided certain exceptions to this general prohibition, but the scope of such exceptions has varied in each annual appropriation act. Reference should be made to the current appropriation act and to the procedures prescribed by each respective Department for the details of the available exceptions. It has been determined by the Secretary of each Department that all the articles of food and clothing contained in the list set forth in § 405.109 are exempt from this general prohibition. The prohibition contained in annual appropriation acts is in addition to the restrictions of the Buy American Act.

§ 405.107 *References in contractual documents.* Formal solicitations of bids and informal requests for quotations shall refer to the Buy American Act and any other statutory prohibitions on foreign purchases whenever applicable to the supplies being procured, and information as to excepted supplies shall be made available to suppliers upon request. All contracts for supplies shall contain, with respect to the Buy American Act and any other statutory prohibitions on foreign purchases, such provision as is required by this subchapter and by procedures prescribed by each respective Department.

§ 405.108 *Violation of Buy American Act provision in construction contracts.* The Secretary of any Department, upon finding that in the performance of a construction contract there has been a failure to comply with the Buy American Act provision, shall make public his findings (including therein the name of the contractor obligated under such contract) and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded to such contractor, subcontractors, materialmen, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public. The name of any such noncomplying contractor or bidder shall be placed on each Department's list of ineligible contractors and disqualified bidders referred to in § 400.303 of this subchapter.

§ 409.109 *Armed Services list of supplies excepted from Buy American Act.* (See § 405.105.)

1. *Supplies to be procured for public use.*

Agar.	Cadmium.
Aluminum.	Calcium cyanamide.
Antimony.	Capers.
Argols, tartar and wine lees.	Cashew nuts.
Asbestos.	Castor beans.
Bananas.	Celestite.
Bauxite.	Chalk, English.
Beef extract.	Chicle.
Beryl.	Chrome ore or chromite.
Bismuth.	Cinchona bark.
Brazil nuts.	

Cobalt (ore and metals).
Cocoa beans.
Cocconut.
Coffee.
Columbite.
Copper.
Copra.
Cork.
Corundum.
Cryolite, natural.
Damar gum.
Derris cube and timbo roots.
Diamonds, industrial and abrasive.
Ergot.
Fiber, coir, abaca, and agave.
Goat and kid skins.
Graphite.
Hyoscine.
Iodine.
Ipecac and emetine.
Jute and jute burlaps.
Kaurigum.
Kyanite.
Lac and shellac.
Lead.
Manganese.
Menthol, natural.
Mercury.
Mica.
Monazite.
Nickel.
Nitroguanidine.
Nux vomica.
Oiticica oil.

2. *Supplies to be used in the construction, alteration, or repair of any public building or public work.*

Aluminum.
Antimony.
Asbestos.
Bauxite.
Chrome ore or chromite.
Copper.
Damar gum.
Jute and jute burlaps.
Kaurigum.
Lac and shellac.
Lead.
Mercury.

Olive oil.
Olives, green and stuffed.
Opium.
Palm oil.
Crude petroleum, petroleum fuels, and petroleum lubricants.
Platinum and related group metals.
Pulp for paper production.
Pyrethrum flowers.
Quartz crystals.
Radium salts.
Rubber, crude and latex.
Rutile.
Santonin.
Sardines.
Silk.
Sperm oil.
Spices.
Talc, steatite.
Tantalite.
Tapioca.
Tea.
Timber, balsa, greenheart, lignum vitae, mahogany, and teak.
Tin.
Tungsten.
Vanilla beans.
Wax, carnauba.
Zinc.
Zirconium.

SUBPART B—CANADIAN PURCHASES

§ 405.201 *Purchases from Canadian suppliers.* Any contract with a supplier or contractor located in the Dominion of Canada may be made with and administered through the Canadian Commercial Corporation (a corporation owned and controlled by the Government of Canada), which has offices at #2 Building, Lyon Street, Ottawa, and at 1205 Fifteenth Street NW., (Marshall Building), Washington, D. C. Under any such contract made with the Canadian Commercial Corporation, direct communication with the Canadian supplier or contractor is authorized only in connection with problems of inspection and technical matters: *Provided*, That, if any such problem would affect the contract price, approval of the Canadian Commercial Corporation shall be obtained. All payments under any such contract made with the Canadian Commercial Corporation shall be made to that Corporation at its Washington office.

§ 405.202 *Guarantee by Canadian Government.* The Canadian Government guarantees to the United States

Government all commitments, obligations, and covenants of the Canadian Commercial Corporation in connection with any contract or order issued to said Corporation by any procuring activity of the United States Government. The Canadian Government has likewise waived notice of any change or modification which may be made from time to time in these commitments, obligations, or covenants.

SUBPART C—DUTY AND CUSTOMS

§ 405.301 *Purchases of war material abroad.* Although ordinarily duty must be paid on the importation of supplies purchased outside the United States, nevertheless foreign purchases made by the Government are exempt from any requirement of a customs bond. Furthermore, foreign emergency purchases of war material abroad, when made by any Department, are exempt from duty (Act of June 30, 1914, 34 U. S. Code 568; section 12 of the Armed Services Procurement Act of 1947). Any decision that a foreign purchase is an "emergency purchase of war material" shall be made in accordance with procedures prescribed by each respective Department, and when accompanied by an entry certificate in the form set forth in § 405.301-1 shall be final and conclusive.

§ 405.301-1 *Entry certificate.* The entry certificate referred to in § 405.301 will be printed, stamped, or typed on the face of Customs Form 7501 or attached thereto, will be executed by an officer or civilian official of the Department designated to execute such certificate, and will be substantially in the following form:

I certify that the procurement of this material constituted an emergency purchase of war material abroad, and it is accordingly requested that such material be admitted free of duty pursuant to [for the Department of the Navy, the Act of June 30, 1914, 34 U. S. Code 568] [for the Department of the Army or the Department of the Air Force, section 12 of Public Law 413, 80th Congress].

§ 405.302 *Nature of war material.* Examples of supplies considered to be "war material" under the provisions of § 405.301 are the following:

(a) Weapons, munitions, aircraft, vessels, or boats;

(b) Supplies necessary for the manufacture, production, processing, repair, servicing, or operation of supplies listed in this section;

(c) Components of, or equipment for, supplies listed in this section.

(d) Agricultural, industrial, or other supplies used in the prosecution of war.

§ 405.303 *Nature of emergency purchases.* Examples of kinds of purchases considered to be "emergency purchases" under the provisions of § 405.301 are the following:

(a) War material acquired by any Department in time of war or a national emergency and paid for from a military appropriation or received in exchange for any thing of value obtained either under reciprocal aid or under other statutory authority;

(b) War material purchased because of a shortage of domestic supply, pur-

suant to a decision that the supplies are necessary for the adequate maintenance of the Armed Services;

(c) Captured enemy war material;

(d) Materials requisitioned by United States Forces abroad;

(e) Materials rebuilt from other materials owned by, captured by, or turned over to United States Forces;

(f) War materials procured for the use of United States Forces abroad or United States vessels in foreign waters.

§ 406.304 Customs duties and drawbacks. Whenever any Department purchases supplies with respect to which there might arise a claim to a refund or drawback of customs duties paid thereon (to the extent such drawback is authorized pursuant to The Tariff Act of 1930, 19 U. S. Code, Chapter 4), the price to be paid shall ordinarily include the customs duties, and accordingly the supplier will have no claim to a drawback. On the other hand, when the price to be paid for any such purpose does not include the customs duties, then the supplier will have the right to claim any drawback with respect thereto: *Provided*, (a) He has reserved such right in connection with such sale or consignment and (b) he produces evidence that such reservation was made with the knowledge and consent of the exporter.

PART 406—CONTRACT CLAUSES AND FORMS

Subpart A is revised to read as follows:

Sec.	
406.000	Scope of part.
SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS	
406.100	Scope of subpart.
406.101	Effective date of subpart.
406.102	Applicability.
406.103	Required clauses.
406.103-1	Definitions.
406.103-2	Changes.
406.103-3	Extras.
406.103-4	Variation in quantity.
406.103-5	Inspection.
406.103-6	Responsibility for supplies.
406.103-7	Payments.
406.103-8	Assignment of claims.
406.103-9	Additional bond security.
406.103-10	Federal, State and local taxes.
406.103-11	Default.
406.103-12	Disputes.
406.103-13	Notice and assistance regarding patent infringement.
406.103-14	Buy American Act.
406.103-15	Convict labor.
406.103-16	Eight-Hour Law of 1912.
406.103-17	Walsh-Healey Public Contracts Act.
406.103-18	Nondiscrimination in employment.
406.103-19	Officials not to benefit.
406.103-20	Covenant against contingent fees.
406.103-21	Termination for convenience of the Government.
406.104	Clauses to be used when applicable.
406.104-1	Davis-Bacon Act.
406.104-2	Copeland Act.
406.104-3	Employment of aliens.
406.104-4	Neutrality Act of 1939.
406.104-5	Filing of patent applications.
406.104-6	Patent indemnity.
406.104-7	Patent rights.
406.104-8	Reporting of royalties.
406.104-9	Copyrights.
406.104-10	Renegotiation Act of 1948.

Sec.	
406.104-11	Vinson-Trammell Act.
406.104-12	Military security requirements.
406.104-13	Domestic food or clothing.
406.105	Additional clauses.
406.105-1	Alterations in contract.
406.105-2	Approval of contract.
406.105-3	Notice to the Government of labor disputes.
406.105-4	Notice of shipments.
406.105-5	Liquidated damages.
406.105-6	Authorization and consent.

AUTHORITY: §§ 406.000 to 406.105-6 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161.

§ 406.000 Scope of part. This part sets forth uniform contract clauses and standard contract forms for use in connection with the procurement of supplies and services by the Departments of the Army, Navy and Air Force. Prescribed standard contract forms appear at the end of this part.

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

§ 406.100 Scope of subpart. This subpart sets forth uniform contract clauses for use in fixed-price supply contracts as defined in § 406.102.

§ 406.101 Effective date of subpart. Notwithstanding any earlier effective date prescribed elsewhere in this subchapter, the contract clauses set forth or referred to in this subpart shall be inserted, as hereinafter prescribed, in all fixed-price supply contracts executed on or after 1 January 1950 or with respect to which procurement is initiated on or after 1 October 1949. Use of the contract clauses set forth or referred to herein is authorized from the date of issuance.

§ 406.102 Applicability. As used throughout this subpart, the term "fixed-price supply contract" shall mean any contract (a) entered into either by formal advertising or by negotiation, including purchase orders in an amount exceeding \$1,000, but excluding letter contracts, letters of intent, preliminary notices of award, and amendments or modifications to contracts or purchase orders; (b) at a fixed price (with or without provision for price redetermination, escalation, or other form of price adjustment) as covered in §§ 402.402 to 402.404, inclusive, of this subchapter; and (c) for supplies other than (a) the construction, alteration or repair of buildings, bridges, roads, or other kinds of real property, and (b) experimental, developmental, or research work.

§ 406.103 Required clauses. The following clauses shall be inserted in all fixed-price supply contracts:

§ 406.103-1 Definitions.

DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf

of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

Additional definitions may be included: *Provided*, They are not inconsistent with the foregoing clause of the provisions of this subchapter.

§ 406.103-2 Changes.

CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause, the period of "30 days" within which any claim for adjustment must be asserted may be varied in accordance with Department procedures.

§ 406.103-3 Extras.

EXTRAS

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

§ 406.103-4 Variation in quantity.

VARIATION IN QUANTITY

No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

§ 406.103-5 Inspection.

INSPECTION

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to final acceptance.

(b) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with

or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or corrected in place, as requested by the Contracting Officer, by and at the expense of the Contractor promptly after notice, and shall not again be tendered for acceptance unless the former tender and either the rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies or lots of supplies, when requested by the Contracting Officer, and to proceed promptly with the replacement or correction thereof, the Government either (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby, or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default." Unless the Contractor elects to correct or replace the supplies which the Government has a right to reject and is able to make such correction or replacement within the required delivery schedule, the Contracting Officer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If Government inspection or test is made at a point other than the premises of the Contractor or a subcontractor, it shall be at the expense of the Government: *Provided*, That in case of rejection the Government shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by the Government shall be performed in such a manner as not to unduly delay the work. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor. Final acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to final acceptance. Except as otherwise provided in this contract, final acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

§ 406.103-6 Responsibility for supplies.

RESPONSIBILITY FOR SUPPLIES

Except as otherwise provided in this contract, (i) the Contractor shall be responsible for the supplies covered by this contract un-

til they are delivered at the designated delivery point, regardless of the point of inspection, and (ii) the Contractor shall bear all risks as to rejected supplies after notice of rejection.

§ 406.103-7 Payments.

PAYMENTS

The Contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either \$1,000 or 50% of the total amount of this contract.

§ 406.103-8 Assignment of claims.

ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940 (31 U. S. Code 203, 41 U. S. Code 15), if this contract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Notwithstanding any provision of this contract, payment to an assignee of any claim under this contract shall not be subject to reduction or set-off for any indebtedness of the Contractor to the Government arising independently of this contract. (The preceding sentence applies only if this contract is with a military department.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret", "Secret", "Confidential", or "Restricted", be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same: *Provided*, That a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

In cases where special circumstances make it advisable in the best interests of the Government, and in accordance with Department procedures, the last sentence of paragraph (a) of the foregoing clause may be deleted.

§ 406.103-9 Additional bond security.

ADDITIONAL BOND SECURITY

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Government, or if any such surety fails to furnish reports as to his financial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

§ 406.103-10 Federal, State and local taxes. Insert the contract clause set forth in § 410.401 of this subchapter.

§ 406.103-11 Default.

DEFAULT

(a) The Government may, subject to the provisions of paragraph (b) below, by written Notice of Default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) The Contractor shall not be liable for any excess costs, if any failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes include, but are not restricted to, acts of God or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and defaults of subcontractors due to any of such causes unless the Contracting Officer shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(c) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated and the Contractor shall be liable to the Government for any excess costs for such similar supplies or services: *Provided*, That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and delivery to the Government, in the manner and to the extent directed by the Contracting Officer, (i) any completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Government has an interest. The Government shall pay to the Contractor the contract price for completed supplies delivered to and accepted by the Government, and the amount agreed upon by the Contractor and the Contracting Officer for manufacturing materials delivered to and accepted by the Government and for the protection and preservation of property. Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(e) If, after notice of termination of this contract under the provisions of paragraph (a) of this clause, it is determined that the failure to perform this contract is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of paragraph (b) of this clause, such Notice of Default shall be deemed to have been issued pursuant to

the clause of this contract entitled "Termination for Convenience of the Government," and the rights and obligations of the parties hereto shall in such event be governed by such clause. Except as otherwise provided in this contract, this paragraph (e) applies only if this contract is with a military department.

(f) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

§ 406.103-12 Disputes

DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall be final and conclusive: *Provided*, That, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

In accordance with Department procedures, the foregoing clause may be modified to provide for intermediate appeal to the head of the procuring activity concerned. The decision of the Contracting Officer referred to in the above clause shall, if mailed, be sent by registered mail, return receipt requested.

§ 406.103-13 *Notice and assistance regarding patent infringement.* Insert the contract clause set forth in § 408.102 of this subchapter.

§ 406.103-14 Buy American Act.

BUY AMERICAN ACT

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced, or manufactured, as the case may be, in the United States. Pursuant to the Buy American Act (41 U. S. Code 10a-d), the foregoing provision shall not apply (i) with respect to supplies excepted by the Secretary from the application of that Act, (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with respect to such supplies, from which the supplies to be delivered under this contract are manufactured, as are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may

be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality: *Provided*, That this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

§ 406.103-15 *Convict labor.* Insert the contract clause set forth in § 411.203 of this subchapter.

§ 406.103-16 *Eight-hour law of 1912.* Insert the contract clause set forth in § 411.303-1 of this subchapter. Note the introductory provision required by § 411.303-2 in the case of contracts with a State or political subdivision thereof.

§ 406.103-17 *Walsh-Healey Public Contracts Act.* Insert the clause set forth in § 411.604 of this subchapter.

§ 406.103-18 *Nondiscrimination in employment.* Insert the clause set forth in § 411.803 of this subchapter.

§ 406.103-19 Officials not to benefit.

OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

§ 406.103-20 *Covenant against contingent fees.*

COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

§ 406.103-21 *Termination for convenience of the government.* Insert the contract clause appropriate for use in fixed-price supply contracts as set forth in Part 407 of this subchapter: *Provided*, That prior to the issuance and effective date of Part 407 there shall be inserted such termination clause as is prescribed by Department procedures.

§ 406.104 *Clauses to be used when applicable.*

§ 406.104-1 *Davis-Bacon Act.* In accordance with the requirements of Subpart D of Part 411 of this subchapter, insert the contract clause set forth in §§ 411.405-1 or 411.405-2, as the case may be.

§ 406.104-2 *Copeland Act.* In accordance with the requirements of Subpart E of Part 411 of this subchapter, insert the contract clause set forth in § 411.504-1 or 411.504-2, as the case may be.

§ 406.104-3 *Employment of aliens.* In accordance with the requirement of section 10 (j) of the act of 1926 (10 U. S. Code 310 (j)) all contracts for furnish-

ing or constructing aircraft, aircraft parts, or aeronautical accessories shall contain the following clause:

EMPLOYMENT OF ALIENS

No aliens employed by the Contractor shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, without the written consent beforehand of the Secretary or his duly authorized representative.

§ 406.104-4 *Neutrality Act of 1939.* In accordance with section 12 (g) of the Neutrality Act of 1939 (Resolution of November 4, 1939; 22 U. S. Code 452), which prohibits the purchase by the Government of arms, ammunition, or implements of war (as listed in a proclamation by the President) from any manufacturer, exporter, importer, or dealer who has failed to register under said act, all contracts with any manufacturer, exporter, importer, or dealer for the purchase of any supplies listed in the then applicable Presidential proclamation shall contain the following clause:

NEUTRALITY ACT OF 1939

If any of the supplies to be delivered under this contract are arms, ammunition, or implements of war, as listed in the current proclamation issued by the President pursuant to the Neutrality Act of 1939 (22 U. S. Code 452), the Contractor either (i) represents that it is properly registered under said Act and agrees to furnish satisfactory evidence thereof upon request, or (ii) represents that it is not subject to said Act and agrees to furnish satisfactory evidence thereof upon request.

§ 406.104-5 *Filing of patent applications.* In accordance with the requirements of § 408.104 of this subchapter, insert the contract clause set forth in said section.

§ 406.104-6 *Patent indemnity.* In accordance with the requirements of § 408.105 of this subchapter, insert the contract clause set forth in said section.

§ 406.104-7 *Patent rights.* In accordance with the requirements of § 408.107 of this subchapter, insert the appropriate contract clause or clauses, with additional provisions as prescribed, set forth in said section.

§ 406.104-8 *Reporting of royalties.* In accordance with the requirements of § 408.103 of this subchapter, insert the contract clause set forth in said section.

§ 406.104-9 *Copyrights.* In accordance with the requirements of Subpart B of Part 408 of this subchapter, insert the contract clause set forth in §§ 408.202 or 408.204, as the case may be.

§ 406.104-10 *Renegotiation Act of 1948.* (a) The clause set forth in this paragraph shall be included in all contracts subject to renegotiation in accordance with (1) the provisions of the Renegotiation Act of 1948, as incorporated in section 3 of the Supplemental National Defense Appropriation Act, 1948 (Public Law 547, 80th Congress, approved May 21, 1948), which requires insertion of such a clause in all contracts (including all subcontracts and lower-tier subcontracts thereunder) in excess of \$1,000 entered into on or after 21 May 1948 under the authority of that Appropria-

tion Act, either obligating funds appropriated thereby, or obligating funds consolidated by that act with funds appropriated thereby, or through contract authorizations granted thereby; (2) the provisions of section 401 of the Second Deficiency Appropriation Act, 1948 (Public Law 785, 80th Congress, approved June 25, 1948), which authorizes the Secretary of Defense to direct the insertion of such a clause in any Armed Services contracts for the procurement of ships, aircraft, aircraft parts, and the construction of facilities or installations outside the continental United States which obligate any funds made available for obligation in the fiscal year 1949, pursuant to which authority the Secretary of Defense directed, by order of 30 June 1948 (to be effective 1 July 1948), the insertion of such a clause in all Armed Services contracts obligating such funds for the procurement of aircraft and aircraft parts; (3) the provisions of section 622 (a) of the National Military Establishment Appropriation Act, 1950 (Public Law 434, 81st Congress), which requires insertion of such a clause in all negotiated contracts in excess of \$1,000 (including all subcontracts and lower-tier subcontracts thereunder in excess of \$1,000) entered into during the fiscal year 1950 by or on behalf of the Department of Defense (including the Department of the Army, the Department of the Navy and the Department of the Air Force); or (4) the provisions of any other Federal law requiring or directing the insertion of such a clause in any Armed Services contracts or subjecting any such contracts to the Renegotiation Act of 1948. Military renegotiation regulations issued by the Military Renegotiation Policy and Review Board, as from time to time supplemented and revised, should be examined for rulings and interpretations as to the kinds of contracts requiring inclusion of a renegotiation clause, and for authorized exemptions. The clause referred to is as follows:

RENEGOTIATION

(a) This contract is subject to the Renegotiation Act of 1948.

(b) The Contractor (which term as used in this clause means the party contracting to furnish the articles or perform the work required by this contract) agrees, within thirty days after receipt of its signed copy of this contract, to notify the Military Renegotiation Policy and Review Board, Office of the Secretary of Defense, Washington 25, D. C., of such contract, indicating its own name and address: *Provided*, that, if the Contractor has previously reported to the Military Renegotiation Policy and Review Board any contract or purchase order subject to the Renegotiation Act of 1948, such notification shall not be necessary.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all contracts or purchase orders in excess of \$1,000 to make or furnish any article or to perform all or any part of the work required for the performance of this contract: *Provided*, that, the contractor shall not be required to insert the provisions of this clause in any contract or purchase order of a class or type described in subsection (1) (1) of the Renegotiation Act of February 25, 1944, as amended, or in any contract or purchase order of a class or type which has been exempted by the Secretary of Defense

or by the Military Renegotiation Policy and Review Board.

(b) In any contract, otherwise subject to the Renegotiation Act of 1948, which is exempted by the Secretary of the Department concerned, the clause described in paragraph (a) of this section shall not be included in such contract, and the following clause shall be inserted in lieu thereof:

RENEGOTIATION

(a) The Secretary, pursuant to the Renegotiation Act of 1948 and the delegations made thereunder by the Secretary of Defense, has exempted this contract from renegotiation.

(b) Notwithstanding such exemption, the contractor (which term as used in this clause means the party contracting to furnish the articles or perform the work required by this contract) agrees to insert the following clause in all contracts or purchase orders in excess of \$1,000 to make or furnish any article or to perform all or any part of the work required for the performance of this contract: *Provided*, That the contractor shall not be required to insert the provisions of this clause in any contract or purchase order of a class or type described in subsection (1) (1) of the Renegotiation Act of February 25, 1944, as amended, or in any contract or purchase order of a class or type which has been exempted by the Secretary of Defense or by the Military Renegotiation Policy and Review Board:

"(a) This contract is subject to the Renegotiation Act of 1948.

"(b) The contractor (which term as used in this clause means the party contracting to furnish the articles or perform the work required by this contract) agrees, within thirty days after receipt of its signed copy of this contract, to notify the Military Renegotiation Policy and Review Board, Office of the Secretary of Defense, Washington 25, D. C., of such contract, indicating its own name and address: *Provided*, That, if the contractor has previously reported to the Military Renegotiation Policy and Review Board any contract or purchase order subject to the Renegotiation Act of 1948, such notification shall not be necessary.

"(c) The contractor agrees to insert the provisions of this clause, including this paragraph (c), in all contracts or purchase orders in excess of \$1,000 to make or furnish any article or to perform all or any part of the work required for the performance of this contract: *Provided*, That the contractor shall not be required to insert the provisions of this clause in any contract or purchase order of a class or type described in subsection (1) (1) of the Renegotiation Act of February 25, 1944, as amended, or in any contract or purchase order of a class or type which has been exempted by the Secretary of Defense or by the Military Renegotiation Policy and Review Board."

(c) In any contract, otherwise subject to the Renegotiation Act of 1948, which, together with each subcontract thereunder, is exempted by the Secretary of the Department concerned, the clauses described in paragraphs (a) and (b) of this section shall not be included in such contract, and the following clause shall be inserted in lieu thereof:

RENEGOTIATION

The Secretary, pursuant to the Renegotiation Act of 1948 and the delegations made thereunder by the Secretary of Defense, has exempted this contract, and each subcontract thereunder, from renegotiation.

(d) In any case in which the above clauses are not applicable, an appropri-

ate clause shall be used in accordance with the procedures prescribed by each respective Department.

§ 406.104-11 *Vinson-Trammell Act*. (a) In accordance with the requirement of section 3 of the Vinson-Trammell Act as amended and extended (34 U. S. Code 496 and 10 U. S. Code 311), and except as provided in paragraphs (b) and (c) of this section, any contract in an amount which exceeds or may exceed \$10,000, known to be for the construction or manufacture of any complete aircraft or naval vessel, or any portion thereof, and which is not subject to the Renegotiation Act of 1948, shall contain the following clause, except that in any advertised contract there may be inserted at the beginning of such clause the words "If this contract is in an amount which exceeds \$10,000,":

VINSON-TRAMMELL ACT

The Contractor agrees that this contract shall be subject to all the provisions of the Vinson-Trammell Act as amended and extended (34 U. S. Code 496, and 10 U. S. Code 311) and shall be deemed to contain all the agreements required by Section 3 of said Act: *Provided, however*, That this clause shall not be construed to enlarge or extend by contract the obligations imposed by said Act. In compliance with said Act, the Contractor agrees to insert in such subcontracts hereunder as are specified in said Act either the provisions of this clause or the provisions required by said Act.

(b) In any contract where only certain items or lots totalling more than \$10,000 are subject to the Vinson-Trammell Act, the foregoing clause should be modified to make the agreement of the Contractor applicable only to such items or lots. In any contract where only certain items or lots totalling \$10,000 or less would otherwise be subject to the Act, the foregoing clause should not be included in the contract even though the total amount of the entire contract exceeds \$10,000.

(c) In any contract, otherwise subject to the Vinson-Trammell Act, for scientific equipment used for communication, target detection, navigation or fire control, as is designated by the Secretary of the Department concerned, the clause prescribed in paragraph (a) of this section shall not be included in such contract, and the following clause shall be inserted in lieu thereof:

VINSON-TRAMMELL ACT

The Secretary having designated the supplies called for by this contract to be scientific equipment used for communication, target detection, navigation or fire control, the provisions of the Vinson-Trammell Act as amended and extended (34 U. S. Code 496, and 10 U. S. Code 311) are not applicable to this contract.

§ 406.104-12 *Military security requirements*. Insert the following clause in all contracts which are classified "Top Secret", "Secret", "Confidential" or "Restricted" by a Department, and in any other contracts the performance of which will require access to such classified information or material:

MILITARY SECURITY REQUIREMENTS

(a) The provisions of the following paragraphs of this clause shall apply only if and to the extent that this contract involves

RULES AND REGULATIONS

access to classified matter, which as used in this clause shall mean information or material classified "Top Secret," "Secret," "Confidential," or "Restricted."

(b) The Contractor (i) shall be responsible for safeguarding all classified matter and shall not supply or disclose classified matter to any unauthorized person, (ii) shall not make or permit to be made any reproductions of matter classified "Top Secret" except with the prior written authorization of the Contracting Officer, (iii) shall not make or permit to be made any reproductions of matter classified "Secret," "Confidential," or "Restricted" except as may be essential to performance of the contract, (iv) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of matter classified "Top Secret," "Secret," or "Confidential," and (v) shall not incorporate in any other project any special features of design or construction which will disclose classified matter, except with the prior written authorization of the Contracting Officer.

(c) Except with the prior written consent of the Secretary or his duly authorized representative, the Contractor (i) shall not permit any alien to have access to classified matter, and (ii) shall not permit any individual to have access to matter classified "Top Secret" or "Secret."

(d) The Contractor agrees (i) to submit immediately to the Contracting Officer a complete confidential report of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity, (ii) to submit to the Contracting Officer, upon written request, any and all information which the Contractor may have concerning any of its employees engaged in any work at any plant, factory, or site at which work under this contract is being performed, and (iii) to exclude from its plant, factory, site, or part thereof, at which work under this contract is being performed, any person or persons whom the Secretary or his duly authorized representative, in the interest of security, may designate in writing.

(e) The Contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer, changing or entirely removing the classification of this contract or of any classified matter.

(f) The obligations of the Contractor under this clause shall be in addition to any obligations of the Contractor to comply with all the terms and provisions of any applicable security or secrecy agreement heretofore or hereafter entered into between the Contractor and the Government.

(g) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified matter, provisions which shall conform substantially to the language of this clause, including this paragraph (g): *Provided*, That such provisions need not be included in any subcontract as to which the Contracting Officer shall consent to the omission of such provisions.

§ 406.104-13 Domestic food or clothing. In all contracts for the procurement of any article of food or clothing, not excepted from the prohibition of annual appropriation acts as set forth in §§ 405.106-1 and 405.107 of Subpart A of Part 405 of this subchapter, insert the following clause:

DOMESTIC FOOD OR CLOTHING

The Contractor agrees that there will be delivered under this contract only such articles of food and clothing as have been grown or produced in the United States, its Territories or its possession.

§ 406.105 Additional clauses. The following clauses shall be inserted in fixed-price supply contracts in accordance

with Department procedures when it is desired to cover the subject matter thereof in such contracts.

§ 406.105-1 Alterations in contract.

ALTERATIONS IN CONTRACT

The following alterations have been made in the provisions of this contract:

§ 406.105-2 Approval of contract.

APPROVAL OF CONTRACT

This contract shall be subject to the written approval of _____ or his duly authorized representative and shall not be binding until so approved.

§ 406.105-3 Notice to the Government of labor disputes.

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

§ 406.105-4 Notice of shipments.

NOTICE OF SHIPMENTS

At the time of delivery of any shipment of supplies to a carrier for transportation, the Contractor shall give prepaid notice of shipment to the consignee establishment, and to such other persons or installations designated by the Contracting Officer, in accordance with instructions of the Contracting Officer. If such instructions have not been received by the Contractor at least 24 hours prior to such delivery to a carrier, the Contractor shall request instructions from the Contracting Officer concerning the notice of shipment to be given.

§ 406.105-5 Liquidated damages.

LIQUIDATED DAMAGES

Where it is desired to provide for liquidated damages, the clause entitled "Default", set forth in § 406.103.11 of this subchapter, shall be used except that paragraph (f) thereof shall be deleted and the following two paragraphs shall be added:

(f) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and therefore in lieu thereof the Contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay the amount set forth elsewhere in this contract: *Provided*, That the Government may terminate this contract in whole or in part as provided in paragraph (a) of this clause, and in that event the Contractor shall be liable, in addition to the excess costs provided in paragraph (c) above, for liquidated damages accruing until such time as the Government may reasonably provide for the procurement of similar supplies or services. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Contractor, as defined in paragraph (b) above, and in such event, subject to the clause of this contract entitled "Disputes," the Contracting Officer shall ascertain the facts and extent of the delay and shall extend the time for performance when in his judgment the findings of fact justify an extension.

(g) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

§ 406.105-6 Authorization and consent. The contract clause set forth in § 408.106 of this subchapter may be inserted pursuant to the provisions of said section.

PART 408—PATENTS AND COPYRIGHTS

Part 408 is amended in the following respects:

1. Section 408.104 is amended to add at the end of paragraph (a) of the clause titled "Filing of Patent Applications", the following: "If the Contracting Officer directs the Contractor not to file such application, the Contractor may submit to the Contracting Officer a written request, addressed to the Secretary, for reconsideration of such direction, but pending action by the Secretary, the Contractor shall observe such instruction."

2. Section 408.107-1 is amended to change the word "Governments" to read "Government" in the 5th line of paragraph (b) of the clause titled "Patent Rights".

3. Section 408.107-1 is amended to insert the word "reasonable" between the words "under" and "terms" in the 4th line of paragraph (h) of the clause titled "Patent Rights".

4. Section 408.107-2 is amended to add after (f) the following:

(g) Where the Contractor is an educational institution which does not have a definite, established policy, approved and promulgated by the governing body of the institution, of retaining title to inventions made by its employees or of requiring its employees to assign title to such inventions to a patent holding entity for the benefit of the institution.

5. Section 408.107-3 is amended to add an "s" to the word "licensee" in the second from the last line of paragraph (i) of the clause.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161)

PART 410—FEDERAL, STATE, AND LOCAL TAXES

Section 410.401 is amended to delete the word "the" in the phrase within quotation marks in line 1 of subparagraph (ii) of paragraph (a) of the clause titled "Federal, State, and Local Taxes".

(R. S. 161; 5 U. S. C. 22. Interprets or applies 62 Stat. 21; 41 U. S. C. Sup. 151-161)

PART 411—LABOR

Sec.	
411.000	Scope of part.
411.001	Effective date of part.

SUBPART A—BASIC LABOR POLICIES

411.101	Labor relations.
411.102	Wage and salary compensation.
411.103	Federal and state labor requirements.

SUBPART B—CONVICT LABOR

411.201	Basic requirement.
411.202	Applicability.
411.203	Contract clause.

SUBPART C—EIGHT-HOUR LAW OF 1912

411.301	Statutory requirement.
411.302	Applicability.
411.303	Contract clauses.
411.303-1	Clause for general use.

Sec.

411.303-2 Clause for contracts with a state or political subdivision.

SUBPART D—DAVIS-BACON ACT

- 411.401 Statutory requirement.
- 411.402 Applicability.
- 411.403 Department of labor regulations.
- 411.404 Responsibilities of contracting officers.
- 411.405 Contract clauses.
- 411.405-1 Clause for general use.
- 411.405-2 Clause for contracts with a state or political subdivision.

SUBPART E—COPELAND ACT

- 411.501 Basic requirement.
- 411.502 Applicability.
- 411.503 Department of labor regulations.
- 411.503-1 Affidavits.
- 411.503-2 Inspection of payroll records.
- 411.504 Contract clauses.
- 411.504-1 Clause for general use.
- 411.504-2 Clause for contracts with a State or political subdivision.

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

- 411.601 Statutory requirement.
- 411.602 Applicability.
- 411.603 Responsibilities of contracting officers.
- 411.604 Contract clause.

SUBPART G—FAIR LABOR STANDARDS ACT OF 1938

- 411.701 Basic statute.
- 411.702 Suits against government contractors.

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

- 411.801 Basic requirement.
- 411.802 Applicability.
- 411.803 Contract clause.

SUBPART I—EMPLOYMENT RESTRICTIONS FOR SECURITY PURPOSES

- 411.901 Restrictions on hiring of aliens and other individuals.
- 411.902 Responsibilities of contractors to employees.
- 411.903 Contracts classified "Atomic Energy Restricted".

AUTHORITY: §§ 411.000 to 411.903 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup. 151-161.

§ 411.000 *Scope of part.* This part (a) deals with general policies regarding labor, so far as they relate to procurement, (b) sets forth certain pertinent labor laws and requirements, indicating in connection with each its applicability and any procedures thereunder, and (c) prescribes the contract clauses with respect to each labor law or requirement.

§ 411.001 *Effective date of part.* This part shall be complied with on and after 1 July 1949; and the contract clauses set forth in this part shall be inserted, whenever applicable, in all contracts executed as of a date on or after 1 July 1949. Compliance with this section and use of the contract clauses set forth herein, as authorized from the date of issuance.

SUBPART A—BASIC LABOR POLICIES

§ 411.101 *Labor relations.* Each Department shall maintain and encourage the best possible relations with industry and labor in order that the Government may procure needed supplies and services without delay. All problems arising out of the labor relations of private contractors, and all communications with

labor organizations or Federal agencies relative thereto, shall be handled in accordance with procedures prescribed by each respective Department and consistently with the following general policy:

(a) The Departments shall exchange information with respect to labor matters for the purpose of maintaining a uniform labor policy throughout the Department of Defense.

(b) With respect to labor relations matters in general, each Department shall not take any independent action, the result of which would have the effect of establishing major policy, unless each such action falls within an established policy of the Department of Defense, or unless prior approval of the Munitions Board has been obtained. Each Department must determine for itself what actions involve major policy. Recommendations for plant seizure or for injunctive action against labor or management would be examples of actions establishing major policy.

(c) Where any labor dispute significantly affects, or threatens to so affect, important procurement, the Department concerned shall notify the Munitions Board and any other interested Department of all information relevant thereto.

(d) Each Department shall remain impartial in, and shall refrain from taking a position on the merits of, a dispute between labor and private management. No Department shall undertake the conciliation, mediation, or arbitration of a labor dispute.

(e) Each Department shall take other action in connection with labor relations problems which is consistent with its procurement responsibilities, as for example:

(1) Giving notice of the existence of a labor dispute, which affects, or threatens to affect, procurement of supplies or services, to the Government agency which has responsibility for conciliation, mediation, arbitration, or other action with respect thereto.

(2) Advising the Government agency, responsible for action with respect to labor disputes, or the parties to a labor dispute, of factual information pertaining to procurement of the supplies or services involved, to the extent consistent with security regulations.

(3) Seeking to obtain such voluntary agreement between management and labor as will permit, notwithstanding the general continuance of the dispute, uninterrupted procurement of military supplies and services, provided such activity does not involve the Department in the merits of a labor difference or dispute.

§ 411.102 *Wage and salary compensation.* It shall be the policy of each Department that contracts will be performed, so far as possible, without work for which compensation at rates in excess of regular or straight-time wage rates is required to be paid. Appropriate administrative control over wage and salary compensation reimbursable by the Government, including (a) standards of reasonableness with respect thereto and (b) authorization of work for which overtime compensation is to be paid,

shall be in accordance with procedures prescribed by each respective Department.

§ 411.103 *Federal and State labor requirements.* It shall be the policy of each Department to cooperate and to require contractors to cooperate, to the fullest extent possible, with Federal and State agencies responsible for enforcing labor requirements with respect to such matters as safety, health and sanitation, maximum hours and minimum wages, and child and convict labor.

SUBPART B—CONVICT LABOR

§ 411.201 *Basic requirement.* Pursuant to the policy set forth in the act of February 23, 1887 (18 U. S. Code 436), and in accordance with the requirements of Executive Order No. 325A of May 18, 1905, all contracts entered into by any Department involving the employment of labor within the continental limits of the United States, shall unless otherwise provided by law, contain a clause prohibiting the employment of persons undergoing sentences of imprisonment at hard labor imposed by State or municipal criminal courts.

§ 411.202 *Applicability.* The requirement set forth in § 411.201 applies, except as stated below, to all contracts involving the employment of labor within the continental limits of the United States. The requirement does not prohibit the employment of persons on parole or probation, or of persons who have been pardoned or who have served their terms. Furthermore, the requirement does not apply to the following kinds of contracts:

(a) Any contract subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart F of this part), which contains its own requirement that "no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract";

(b) Any contract for the purchase of supplies or services from Federal Prison Industries, Inc., or from any State or Federal prison.

§ 411.203 *Contract clause.* The contract clause required by this subpart shall be as follows:

CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

SUBPART C—EIGHT-HOUR LAW OF 1912

§ 411.301 *Statutory requirement.* In accordance with the requirement of the Eight-Hour Law of 1912 (Act of June 19, 1912, as amended; 40 U. S. Code 324-326), certain contracts entered into by any Department shall contain a clause to the effect that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than eight hours in any one calendar day upon such work, unless such laborer or mechanic is compensated for all hours worked in excess of eight hours in any one calendar day

RULES AND REGULATIONS

at not less than one and one-half times the basic rate of pay.

§ 411.302 *Applicability.* The requirement set forth in § 411.301 applies, except as stated below, to all contracts which may require or involve the employment of laborers or mechanics either by a contractor or by any subcontractor. The requirement does not apply to the following kinds of contracts:

(a) Contracts (or portions thereof) to be performed in a foreign country over which the United States has no direct legislative control, to the extent that such contracts (or portions thereof) may require or involve the employment of laborers or mechanics there;

(b) Contracts with a State or political subdivision thereof (although the requirement does apply, and the contract must so provide, to a subcontract thereunder with a private person or firm);

(c) Contracts (or portions thereof) for supplies in connection with which any required services are merely incidental to the sale and do not require substantial employment of laborers or mechanics;

(d) Contracts (or portions thereof) for materials or articles (other than armor or armor plate) usually bought in the open market (although the requirement does apply and, the contract must so provide, with respect to any contract involving the performance of any class of work which is ordinarily, and not merely occasionally or to a limited extent, performed by the Government);

(e) Contracts (or portions thereof) subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart F of this part).

§ 411.303 *Contract clauses.*

§ 411.303-1 *Clause for general use.* Except for those kinds of contracts referred to in § 411.303-2, the contract clause required by this subpart shall be as follows:

EIGHT-HOUR LAW OF 1912

This contract, to the extent that it is of a character specified in the Eight-hour Law of 1912 as amended (40 U. S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U. S. Code 35-45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of the said work, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon

said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

§ 411.303-2 *Clause for contracts with a State or political subdivision.* In the case of contracts with a State or political subdivision thereof (see § 411.302 (b)), the contract clause required by this subpart shall be the clause set forth in § 411.303-1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms.

SUBPART D—DAVIS-BACON ACT

§ 411.401 *Statutory requirement.* In accordance with the requirement of the Davis-Bacon Act (Act of March 3, 1931, as amended; 40 U. S. Code 276a), contracts over \$2,000 entered into by any Department for the construction, alteration or repair (including painting and decorating) of public buildings or public works shall contain a provision to the effect that no laborer or mechanic employed directly upon the site of the work contemplated by the contract shall receive less than the prevailing wages as determined by the Secretary of Labor.

§ 411.402 *Applicability.* The requirement set forth in § 411.401 applies, except as stated below, to all contracts over \$2,000 for construction or repair, and involving the employment of mechanics or laborers either by a contractor or by any subcontractor. The kind of work covered by the Davis-Bacon Act embraces construction activity as distinguished from the manufacturing or furnishing of supplies. The requirement does not apply to the following kinds of contracts:

(a) Contracts for supplies (including installations or maintenance work which is only incidental to the furnishing of such supplies; although the requirement does apply (1) where installation involves a substantial amount of construction at the site, such as for heavy generators and large refrigerators, (2) to the transportation of supplies to or from the building site by employees of the construction contractor or of a construction subcontractor, and (3) to the manufacturing or furnishing of supplies, such as window frames and other millwork, on the building site by the contractor or subcontractor on a construction, alteration or repair contract otherwise subject to the act, or to the manufacturing or furnishing of supplies under a contract based upon the specifications, and at the site of the work, of a construction, alteration, or repair contract otherwise subject to the act;

(b) Contracts for servicing or maintenance work (including installation or movement of machinery or other equipment, and incidental plant rearrangement) which involve only an incidental amount of construction, alteration, or repair; although the requirement does apply (1) to installation, movement or rearrangement of machinery or other equipment involving a substantial amount of construction or repair, and (2) to servicing or maintenance work

performed under a contract based upon the specifications, and at the site of the work, of a construction, alteration or repair contract otherwise subject to the act;

(c) Contracts for the construction or repair of vessels, aircraft or other kinds of personal property;

(d) Contracts to be performed (1) outside the continental United States and its territories of Alaska and Hawaii, or (2) at a place not known or not reasonably ascertainable at the time the contract is entered into;

(e) Contracts with a State or political subdivision thereof (although the requirement does apply, and the contract must so provide, to a subcontract thereunder with a private person or firm).

§ 411.403 *Department of Labor regulations.* The wage determinations of the Secretary of Labor under the Davis-Bacon Act are made in accordance with Regulations No. 503 entitled "Regulations prescribed by the Secretary of Labor as to the Procedure to be followed in predetermining prevailing rates of wages," dated September 30, 1935, as amended.

§ 411.404 *Responsibilities of contracting officers.* Whenever the Davis-Bacon Act is applicable, the Contracting Officer shall, in accordance with procedures prescribed by each respective Department—

(a) Prior to soliciting bids or requesting informal proposals, obtain and make known the current determination of wage rates appropriate for the contract concerned;

(b) Report to the disbursing officer on Standard Form No. 1093 (Schedule of Deductions From Payments to Contractors) any instance that comes to his attention of any laborer or mechanic being paid wages less than the wages required by the appropriate determination of the Secretary of Labor;

(c) Obtain from contractors weekly pay-roll records so that such records shall be available for determination as to whether the contractor has complied with the statute.

§ 411.405 *Contract clauses.*

§ 411.405-1 *Clause for general use.* Except for the kind of contracts referred to in § 411.405-2, the contract clause required by this subpart shall be as follows:

DAVIS-BACON ACT

This contract, to the extent that it is of a character specified in the Davis-Bacon Act as amended (40 U. S. Code 276a), is subject to all provisions and exceptions of said Davis-Bacon Act, including in particular the following:

(a) The Contractor and his subcontractors shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by applicable regulations prescribed by the Secretary of Labor), the full amounts accrued at time of payment computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics; and the scale of wages

to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of the work.

(b) The Contracting Officer shall have the right to withhold from the Contractor so much of accrued payments as may be considered necessary by the Contracting Officer to pay to laborers and mechanics employed on the work the difference between (i) the rates of wages required by the contract to be paid laborers and mechanics on the work and (ii) the rates of wages received by such laborers and mechanics and not refunded to the Contractor, subcontractors, or their agents.

(c) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Contracting Officer may (i) by written notice to the Contractor, terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (ii) prosecute the work to completion by contract or otherwise, whereupon the Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

§ 411.405-2 Clause for contracts with a State or political subdivision. In the case of contracts with a State or political subdivision thereof (see § 411.402 (e)), the contract clause required by this subpart shall be the clause set forth in § 411.405-1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms:

SUBPART E—COPELAND ACT

§ 411.501 Basic requirement. The Copeland ("Anti-Kickback") Act (18 U. S. Code 874 and 40 U. S. Code 276c) makes it unlawful to induce, by force or otherwise, any person employed in the construction or repair of public buildings or public works (including those financed in whole or in part by loans or grants from the United States) to give up any part of the compensation to which he is entitled under his contract of employment. In accordance with regulations of the Secretary of Labor issued pursuant to the Copeland Act, certain contracts entered into by any Department shall contain a provision to the effect that the contractor and any subcontractor shall comply with the regulations of the Secretary of Labor under said act.

§ 411.502 Applicability. The requirement set forth in § 411.501 applies, except as stated below, to all contracts for the construction or repair of public buildings or public works. The kind of work covered by the Copeland Act regulations embraces construction activity as distinguished from the manufacturing or furnishing of supplies. This requirement, as in the case of the Davis-Bacon Act (see Subpart D of this part), does not apply to the kinds of contracts described in § 411.402 (a) to (e) inclusive.

§ 411.503 Department of Labor regulations. The procedure to be followed in connection with contracts subject to the Copeland Act is prescribed by regulations issued by the Secretary of Labor.

§ 411.503.1 Affidavits. Every contractor and subcontractor engaged in work subject to the Copeland Act is required to furnish each week to the Contracting Officer, in accordance with regulations issued by the Secretary of Labor, a sworn affidavit with respect to wages paid to its laborers and mechanics and their immediate supervisors. Affidavits will be forwarded by the Contracting Officer directly to the Office of the Solicitor, Department of Labor, on a quarterly basis for the periods ending 31 March, 30 June, 30 September, and 31 December for all contracts except railroad contracts, and on a semiannual basis for the periods ending 30 June and 31 December for railroad contracts.

§ 411.503-2 Inspection of pay-roll records. Weekly pay-roll records of contractors and subcontractors subject to the Copeland Act are available for inspection by the Contracting Officer during the performance of the contract and for a period of three years from the date of its completion.

§ 411.504 Contract clauses.

§ 411.504-1 Clause for general use. Except for the kind of contracts referred to in § 411.504-2, the contract clause required by this subpart shall be as follows:

COPELAND ACT

To the extent that this contract is of a character specified in the Copeland ("Anti-Kickback") Act as amended (18 U. S. Code 874 and 40 U. S. Code 276c), the Contractor agrees to comply with the regulations, rulings, and interpretations of the Secretary of Labor pursuant to said Copeland Act, which act makes it unlawful to induce any person employed in the construction or repair of public buildings or public works to give up any part of the compensation to which he is entitled under his contract of employment; and the Contractor agrees to insert a like provision in all subcontracts hereunder.

§ 411.504-2 Clause for contracts with a State or political subdivision. In the case of contracts with a State or political subdivision thereof (see § 411.402 (e) relative to the Davis-Bacon Act), the contract clause required by this subpart shall be the clause set forth in § 411.504-1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms.

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

§ 411.601 Statutory requirement. In accordance with the requirement of the Walsh-Healey Public Contracts Act (Act of June 30, 1936, as amended; 41 U. S. Code 35-45), all contracts entered into by any Department for the manufacture or furnishing of supplies in any amount exceeding \$10,000 shall incorporate by reference the representations and stipulations required by said act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, safe and sanitary working conditions, and the contractor's status as a manufacturer or regular dealer.

§ 411.602 Applicability. The requirement set forth in § 411.601 applies to contracts for the manufacture or fur-

nishing of "materials, supplies, articles, and equipment" which are to be performed within the United States or its territories and which exceed or may exceed \$10,000 in amount. Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of said act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations." In addition to the interpretations stated in that document, attention is directed to an opinion of the Department of Labor that contracts which are originally \$10,000 or less, but are subsequently modified to increase the price to an amount in excess of \$10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding \$10,000, which are subsequently modified to a figure of \$10,000 or less, are not subject to said act with respect to work performed after such modification if modification is effected by mutual agreement.

§ 411.603 Responsibilities of contracting officers. Whenever the Walsh-Healey Public Contracts Act is applicable, the Contracting Officer shall, pursuant to regulations or instructions issued by the Secretary of Labor and in accordance with procedures prescribed by each respective Department—

(a) Inform prospective contractors of the possible applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC-13);

(c) Prepare and transmit Form PC-1 or substitute procedure approved by the Department of Labor and the Department concerned;

(d) Report to the Department of Labor any violation of the representations or stipulations required by the Walsh-Healey Act.

§ 411.604 Contract clause. The contract clause required by this subpart shall be as follows:

WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act as amended (41 U. S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

SUBPART G—FAIR LABOR STANDARDS ACT OF 1938

§ 411.701 Basic statute. The Fair Labor Standards Act of 1938 (Act of June 30, 1938; 29 U. S. Code 201-219), as amended, provides for the establishment of minimum wage and maximum hour standards, creates a Wage and Hour Division in the Department of Labor for purposes of interpretation and enforcement (including investigations and inspections of Government contractors), and prohibits oppressive child

labor. Said act applies to all employees, unless otherwise exempted, who are engaged in (a) interstate commerce or foreign commerce or (b) the production of goods for such commerce or (c) any closely related process or occupation essential to such production.

§ 411.702 *Suits against government contractors.* Payments made pursuant to the provisions of the Fair Labor Standards Act are usually reimbursable under cost or cost-plus-a-fixed-fee contracts. Consequently, each Department has a direct interest in claims and suits under said act which are made or brought in connection with such contracts. In this connection, procedures have been established, by agreement between the Department of Justice on the one hand and the Departments of the Army, Navy, and Air Force on the other hand, governing the defense of such Fair Labor Standards Act suits. These procedures in general contemplate the defense of Fair Labor Standards Act suits by private counsel employed by the Contractor, the employment of whom is approved by the Department concerned. These procedures must be followed if contractors are to be reimbursed for the amount of any judgment under said act, or for any litigation expenses (including the reasonable fees of such private counsel).

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

§ 411.801 *Basic requirement.* In accordance with the requirement of Executive Order No. 8802 of June 25, 1941, as amended by Executive Order No. 9346 of May 27, 1943, certain contracts entered into by any Department shall contain a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin (including noncitizenship), and further obligating the contractor to include a similar provision in all subcontracts.

§ 411.802 *Applicability.* The requirement set forth in § 411.801 applies, in general, to all contracts involving the employment of labor. The requirement does not apply—

(a) To contracts with foreign contractors for work to be performed outside the limits of the continental United States and its territories where no recruitment of workers within said limits is involved, and

(b) To subcontracts for standard commercial supplies or for raw materials.

§ 411.803 *Contract clause.* The contract clause required by this subpart shall be as follows:

NONDISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder except subcontracts for standard commercial supplies or for raw materials.

SUBPART I—EMPLOYMENT RESTRICTIONS FOR SECURITY PURPOSES

§ 411.901 *Restrictions on hiring of aliens and other individuals.* It shall be

the policy of each Department, in the interest of safeguarding the national security, to require written consent of the Secretary of the Department concerned (in accordance with procedures prescribed by that Department) prior to (a) the employment of any alien on any contract for aircraft, aircraft parts, or aeronautical accessories, or on any contract classified "top secret," "secret," "confidential," or "restricted," and (b) the employment of any individual on any top secret or secret contract.

§ 411.902 *Responsibilities of contractors to employees.* In connection with all classified contracts, it shall be the policy of each Department to require that a contractor will be responsible for furnishing to the Contracting Officer (a) any requested information with respect to his employees, and (b) information and reports regarding any subversive activities of his employees.

§ 411.903 *Contracts classified "Atomic Energy Restricted."* Employment restrictions with respect to any contract classified "Atomic Energy Restricted" shall be in accordance with regulations of the Atomic Energy Commission and procedures prescribed by each respective Department.

PART 414—CONTRACT COST PRINCIPLES

Section 414.502 is amended to change the word "or" to "of" in line 1 of paragraph (c).

(R. S. 161; 5 U. S. C. 22. Interprets or applies 62 Stat. 21; 41 U. S. C. Sup. 151-161)

[F. R. Doc. 50-10031; Filed, Nov. 22, 1950; 8:45 a. m.]

Chapter V—Department of the Army

Subchapter F—Personnel

PART 577—MEDICAL AND DENTAL ATTENDANCE

RATES OF CHARGES

Rescind § 577.18 and substitute the following in lieu thereof:

§ 577.18 *Rates of charge.* Charges will be at the rates for the applicable fiscal year as prescribed in current Department of the Army regulations.

[AR 40-306, 9 Oct. 1950] (R. S. 161; 5 U. S. C. 22)

[SEAL]

EDWARD F. WITSELL,
Major General, U. S. A.,
The Adjutant General.

[F. R. Doc. 50-10605; Filed, Nov. 22, 1950; 8:48 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 3—VETERANS' CLAIMS

MISCELLANEOUS AMENDMENTS

Correction

In F. R. Document 50-9985, appearing in the issue for Friday, November 10, 1950, on page 7642 make the following changes:

a. Change the introductory paragraph to read as follows:

1. In Part 3, § 3.228, paragraphs (h) and (i) are amended, paragraph (j) is redesignated (k), and a new paragraph (j) has been added, as follows:

b. In the text paragraph (i-1) should be designated "(j)".

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 43—TREATMENT OF DOMESTIC MAIL MATTER AT RECEIVING POST OFFICES

MISCELLANEOUS AMENDMENTS

Correction

In F. R. Document 50-10038 appearing in the issue for Friday, November 10, 1950, on page 7644, make the following changes:

In amendatory paragraph 2 instead of inserting a new paragraph (b-1), insert a new paragraph (a-1).

TITLE 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

PART 12—AMATEUR RADIO SERVICE

AVAILABILITY OF OPERATOR LICENSE

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of November 1950:

The Commission having under consideration the provisions of §§ 12.25 and 12.68 of Part 12, "Amateur Radio Service" which respectively provide, in effect, among other things, that an amateur radio operator must have the original copy of his operator license in his possession at such times as he is operating a radio station, and that an original or a photocopy of the amateur station license must be posted in a conspicuous place in the room where the station is operated;

It appearing, that both the amateur operator license and the station license are issued on the same side of a single card so that the photocopying of the station license generally would necessitate photocopying of both licenses;

It further appearing, that, because there is a general misunderstanding regarding the provisions of § 12.25 and doubt as to whether the last sentence of such section prohibits the photocopying of an amateur operator's license, amendment of that section for clarification of this matter is necessary and desirable;

It further appearing, that the amendment herein ordered is interpretative and does not impose any new requirement or change any existing requirement so that compliance with the public notice and procedure provided for in section 4 of the Administrative Procedure Act is not required;

It further appearing, that authority for the amendment herein ordered is contained in sections 4 (i) and 303 (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That, effective immediately, § 12.25 of Part 12, "Amateur Radio Service," be and it hereby is amended to provide as follows:

§ 12.25 *Availability of operator license.* The original operator license of each operator shall be kept in the personal possession of the operator while operating an amateur station. When operating an amateur station at a fixed location, however, the license may be posted in a conspicuous place in the room occupied by the operator. The license shall be available for inspection by any authorized Government official whenever the operator is operating an amateur station and at other times upon request made by an authorized representative of the Commission, except when such license has been filed with application for modification or renewal thereof, or has been mutilated, lost or destroyed, and application has been made for a duplicate license in accordance with § 12.26. No recognition shall be accorded to any photocopy of an operator license; however, nothing in this section shall be construed to prohibit the photocopying, for other purposes, of any amateur radio operator license.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: November 14, 1950.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10615; Filed, Nov. 22, 1950;
8:49 a. m.]

[Docket No. 9750]

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

MISCELLANEOUS AMENDMENTS

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 13th day of November 1950;

The Commission, having under consideration the matter of the amendment of §§ 63.61, 63.64 (a) (3), 63.502 (n) (2) and 63.503 (o) (2) of the Commission's rules and regulations; and having also under consideration its notice of proposed rule making adopted herein on August 2, 1950, and published in the FEDERAL REGISTER on August 16, 1950 (15 F. R. 5458) in accordance with section 4 (a) of the Administrative Procedure Act, and comments filed in response thereto;

It appearing, that the period in which interested persons were afforded an opportunity to submit comments expired on September 15, 1950, and that comments were filed by the Western Union Telegraph Company requesting that the three-month temporary period proposed in the amendment to § 63.61 be changed to six months or longer, and by RCA Communications, Inc., likewise requesting that such three-month period be changed to a six-month period; and that no other objections were received re-

garding the above proposed amendments;

It further appearing, that it is desirable and proper to make final the adoption of the amendments as originally proposed in the aforementioned notice of proposed rule making, except that the three-month period proposed in the amendment to § 63.61 should be changed to a six-month period;

It is ordered, That, effective January 1, 1951, Part 63, Extension of Lines and Discontinuance of Service by Carriers of the Commission's rules and regulations is amended as follows:

1. Amend § 63.61 by changing the period at the end of the sentence to a colon and adding the following: "Provided, however, Where service is expanded on an experimental basis for a temporary period of not more than six months, no application shall be required to reduce service to its status prior to such expansion. In such cases, however, a written notice shall be filed with the Commission within 10 days of the reduction showing (a) date on which, places at which, and extent to which service was expanded and (b) date on which, places at which, and extent to which such expansion of service was discontinued."

2. Delete present § 63.64 (a) (3) and renumber present § 63.64 (a) (4) as 63.64 (a) (3).

3. Amend §§ 63.502 (n) (2) and 63.503 (o) (2) by changing the word "sent", appearing twice in each section, to read "filed".

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 214, 218, 48 Stat. 1075, as amended, 1077; 47 U. S. C. 214, 218)

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

NOVEMBER 14, 1950.

[F. R. Doc. 50-10614; Filed, Nov. 22, 1950;
8:49 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 33—CENTRAL REGION

SUBPART—UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE, ILLINOIS, IOWA, MINNESOTA AND WISCONSIN; DEER HUNTING

Basis and purpose. On the basis of observations and reports by field representatives of the Fish and Wildlife Service, it has been determined that there is an excess population of deer on the Upper Mississippi River Wildlife and Fish Refuge, the removal of which, in keeping with the wildlife management objectives for the Refuge, can best be accomplished by opening the Refuge to public hunting.

Inasmuch as the following regulations are relaxations of the prohibition against

the hunting of deer at times other than the period as set forth in § 33.274, the publication prior to the effective date thereof is not required. (60 Stat. 237, 5 U. S. C. 1001 et seq.)

Effective immediately upon publication in the FEDERAL REGISTER, the following sections are added:

Sec.
33.307 Deer hunting permitted.
33.308 Entry.
33.309 State hunting laws.

AUTHORITY: §§ 33.307 to 33.309 issued under sec. 6, 45 Stat. 1223, as amended; 16 U. S. C. 715e. Interpret or apply sec. 10, 45 Stat. 1224, as amended; 16 U. S. C. 715i.

§ 33.307 *Deer hunting permitted.* Deer may be taken during the 1950 State open seasons on those lands of the Upper Mississippi River Wildlife and Fish Refuge in the State of Wisconsin not specifically closed to hunting by § 33.275, subject to the provisions, conditions, restrictions, and requirements of §§ 33.308 and 33.309.

§ 33.308 *Entry.* Entry on and use of the Refuge are governed by Parts 18 and 21 of this subchapter, and by §§ 33.261 to 33.273, inclusive, and strict compliance therewith is required. Hunters must follow such routes of travel within the Refuge as are designated by posting.

§ 33.309 *State hunting laws.* Strict compliance with State laws and regulations is required and any person who hunts on the Refuge must have in his possession and exhibit at the request of any authorized Federal or State officer, a valid State hunting license for the taking of deer, if such is required by the State laws and regulations, which license shall serve as a Federal permit for the hunting of deer on the Refuge.

Dated: November 17, 1950.

ALBERT M. DAY,
Director.

[F. R. Doc. 50-10599; Filed, Nov. 22, 1950;
8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Parts 941, 969]

[Docket No. AO-101-A11]

HANDLING OF MILK IN CHICAGO AND SUB-URBAN CHICAGO, ILL., MARKETING AREAS

NOTICE OF HEARING, PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Correction

In Federal Register Document 50-10435, appearing at page 7891 of the issue for Saturday, November 18, 1950, the bracketed CFR headnote and the subject headnote should read as set forth above.

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. 2949]

MID-CONTINENT AIRLINES, INC.; SERVICE
TO LINCOLN, NEBR.

NOTICE OF HEARING

In the matter of the application of Mid-Continent Airlines, Inc., for amendment of its certificate of public convenience and necessity for route No. 26 so as to include Lincoln, Nebr., as an intermediate point between Omaha, Nebr., and St. Joseph, Mo.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401 and 1001 of said act, that the above-entitled proceeding is assigned for hearing on Thursday, December 14, 1950, at 10:00 a. m. (e. s. t.) in Room 1011, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Without limiting the scope of the issues involved in this proceeding particular attention will be directed to the following matters and questions:

1. Whether the proposed service is required by the public convenience and necessity.

2. Whether applicant is a citizen of the United States and is fit, willing, and able to perform the proposed service and to conform to the provisions of the act and the rules, regulations, and requirements of the Board promulgated thereunder.

Notice is further given that any person desiring to be heard in opposition to the above application must file with the Board on and before December 14, 1950, a statement setting forth the issues of fact or law which he desires to controvert.

For further details of the service proposed and authorization requested, interested parties are referred to the application on file with the Civil Aeronautics Board.

Dated at Washington, D. C., November 17, 1950.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-10604; Filed, Nov. 22, 1950; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order 404]

SPECIAL INDUSTRY COMMITTEE NO. 9 FOR
PUERTO RICO

AMENDMENT TO ORDER OF APPOINTMENT TO
INVESTIGATE CONDITIONS AND RECOMMEND
MINIMUM WAGE RATES

On October 19, 1950, by Administrative Order No. 403, the Administrator of the Wage and Hour Division appointed Special Industry Committee No. 9 for Puerto Rico to investigate conditions in and

recommend minimum wage rates for a number of industries specified and defined in the order. This order was published in the FEDERAL REGISTER on October 24, 1950 (15 F. R. 7125).

On November 9, 1950, a notice was published in the FEDERAL REGISTER that I propose to disapprove the industry committee recommendations for minimum wage rates for the Semi-Vitreous and Vitreous-China Food Utensils Division of the Clay and Clay Products Industry in Puerto Rico and the Decorations Division of the Metal, Plastics, Machinery, Instrument, Transportation Equipment, and Allied Industries in Puerto Rico. Interested persons were given 15 days within which to file exceptions to the proposed actions. Upon the expiration of such 15-day period the final decision with respect to such recommendations will be published. In the event that such recommendations should be finally disapproved, it is considered desirable that the matter of minimum wage rates for the industries engaged in the activities included within the divisions referred to should be reconsidered by Special Industry Committee No. 9 for Puerto Rico. It is therefore necessary to make provision for referring the matter to said Committee for consideration in the event of such disapproval.

Accordingly, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), Administrative Order No. 403 is hereby amended by deleting the period at the end of paragraph 2 of said order and adding the following at the end of that paragraph: "and such other industries as the Administrator may designate, including the Semi-Vitreous and Vitreous-China Food Utensils Division of the Clay and Clay Products Industry in Puerto Rico, and the Decorations Division of the Metal, Plastics, Machinery, Instrument, Transportation Equipment, and Allied Industries in Puerto Rico, as such divisions are defined in the notices of the proposed decision of the Acting Administrator concerning minimum wage rates for such industries, published in the FEDERAL REGISTER on November 9, 1950 (15 F. R. 7531)."

Signed at Washington, D. C., this 17th day of November, 1950.

F. GRANVILLE GRIMES, Jr.,
Acting Administrator,
Wage and Hour Division.

[F. R. Doc. 50-10587; Filed, Nov. 22, 1950; 8:45 a. m.]

FEDERAL COMMUNICATIONS
COMMISSION

[Docket Nos. 9742, 9743, 9824, 9835]

SKY WAY BROADCASTING CORP. ET AL.

ORDER DESIGNATING APPLICATION FOR CON-
SOLIDATED HEARING ON STATED ISSUES

In re applications of Sky Way Broad-
casting Corporation, Columbus, Ohio,

Docket No. 9742, File No. BP-7655; Athens Broadcasting Company, Athens, Ohio, Docket No. 9743, File No. BP-7688; Stephen H. Kovalan, Wellston, Ohio; Docket No. 9824, File No. BP-7879; Robert E. Jenkins and John F. Stiffer d/b as the Jackson Broadcasting Company, Jackson, Ohio; Docket No. 9835, File No. BP-7884; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 15th day of November 1950;

The Commission having under consideration the above-entitled application of Robert E. Jenkins and John F. Stiffer d/b as the Jackson Broadcasting Company requesting a permit to construct a new standard broadcast station to operate on the frequency 1580 kilocycles, with 1 kilowatt power, daytime only at Jackson, Ohio;

It appearing, that the Commission on July 21, 1950, designated for hearing in a consolidated proceeding which is scheduled to commence at 10:00 a. m. on November 20, 1950, at Washington, D. C., the above-entitled applications of Sky Way Broadcasting Corporation and of Athens Broadcasting Company each requesting a permit to construct a new standard broadcast station to operate on the frequency 1580 kilocycles, with 1 kilowatt power, daytime only at Columbus and Athens, Ohio, respectively, and on November 10, 1950 designated for hearing in this consolidated proceeding the above-entitled application of Stephen H. Kovalan for a permit to construct a new standard broadcast station to operate on 1570 kilocycles, with 250 watts power, daytime only at Wellston, Ohio;

It further appearing, that the said application of the Jackson Broadcasting Company may involve mutually exclusive interference with the applications of Sky Way Broadcasting Corporation, Athens Broadcasting Company and Stephen H. Kovalan;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing in the above consolidated proceeding upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant partnership and its partners to operate the proposed stations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby,

and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference, each with the other, or with the services proposed in the pending applications of Sky Way Broadcasting Corporation, Athens Broadcasting Company and Stephen H. Kovalan or with the services proposed in any other pending applications for broadcast facilities, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed stations would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the Commission's order of July 21, 1950, as amended by the Commission's order of November 10, 1950 designating for hearing in a consolidated proceeding the above-entitled applications of Sky Way Broadcasting Corporation, Athens Broadcasting Company and of Stephen H. Kovalan is amended to include the above-entitled application of Robert E. Jenkins and John F. Stiffler d/b as The Jackson Broadcasting Company and the pertinent issues herein.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary,

[F. R. Doc. 50-10608; Filed, Nov. 22, 1950;
8:47 a. m.]

[Docket Nos. 9825, 9826]

TELANSERPHONE, INC., AND THOMAS L.
SMITH, JR.

ORDER DESIGNATING APPLICATIONS FOR CON-
SOLIDATED HEARING ON STATED ISSUES

In re applications of Telanserphone, Inc., Docket No. 9825, File No. 7298-C2-P-E; and Thomas L. Smith, Jr., Docket No. 9826, File No. 8460-C2-P-E; for construction permits in the Domestic Public Land Mobile Radio Service at Washington, D. C.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of November 1950;

The Commission, having under consideration the above-entitled applications for authorizations to construct radio stations to provide one-way signalling service in the Domestic Public Land Mobile Radio Service at Washington, D. C., utilizing the frequency 43.58 Mc., which is the only frequency available for such purposes pursuant to the applicable rules and regulations;

It appearing, that in accordance with the Commission's report and order in Dockets Nos. 8658, et al., dated April 27, 1949, and § 6.409 of the Commission's rules governing public radiocommunications

services (other than maritime mobile) each frequency available for assignment in the domestic public land mobile radio service is normally assigned exclusively to a single applicant in any service area in order to permit the rendition of service on an interference-free basis, and that the subject applications are mutually exclusive;

It is ordered, That pursuant to the provisions of section 309 (a) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to be heard at 10:00 a. m. on January 8, 1951 at the offices of the Commission in Washington, D. C., upon the following issues:

(1) To determine the legal, technical and financial qualifications of each of the above-named applicants to construct and operate the proposed stations.

(2) To determine the nature, type and scope of service proposed to be provided.

(3) To determine the area which may be expected to receive service from the proposed stations and the need for such service in the area proposed to be served.

(4) To determine the facts with respect to the proposed facilities, personnel, rates, regulations, practices and services of each applicant for the furnishing of one-way signalling service in the domestic public land mobile radio service at Washington, D. C.

(5) To determine, in the light of the evidence on the foregoing issues, which applicant is best qualified to serve the public interest, convenience or necessity.

(6) To determine, on a comparative basis, which, if either, of the applications in this proceeding should be granted.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10609; Filed, Nov. 22, 1950;
8:47 a. m.]

[Docket Nos. 9761-9769, 9771-9773]

TELEPHONE MESSAGE SERVICE OF YONKERS
ET AL.

ORDER SCHEDULING HEARING

In re applications for construction permits or licenses, respectively, in the domestic public land mobile radio service of Telephone Message Service of Yonkers, Yonkers, New York; docket No. 9761, Files Nos. 1316 and 1372-C2-ML-E; Harold W. Graf, Hempstead, New York; Docket No. 9762, Files Nos. 2040/2041-C2-ML-E; Harold W. Graf, Bay Shore, New York; Docket No. 9763; Files Nos. 1223/1224-C2-P-E; Telephone Secretarial Service, Inc., Newark, New Jersey; Docket No. 9764, Files Nos. 4855/4856-C2-ML-E; Peter T. Kroeger, d/b as Mobile Radio Dispatch Service, New Brunswick, New Jersey; Docket No. 9765, Files Nos. 3639/3640-C2-ML-E; J. J. Freke-Hayes, New York, New York; Docket No. 9766, Files Nos. 3041/3042-C2-ML-E; Solomon Schiller, Brooklyn, New York; docket No. 9767, Files Nos. 2892/2893-C2-ML-E; Westchester Mobilphone System, Inc., Mt. Pleasant, New York; Docket No. 9768, Files Nos. 3534/3535-

C2-ML-E; Huntington Radio Dispatch Service, tr/as Knights Packard Service, Huntington, New York; Docket No. 9769, File No. 18666-C2-P-E; James P. Rogers, d/b as Suburban Radiotelephone, West Orange, New Jersey; Docket No. 9771, File No. 5170-C2-P-E; Mildred Tarone, d/b as Doctors' Telephone Exchange and Huntington Telephone Answering Service, Huntington, New York; Docket No. 9772; Files Nos. 12015/12016-C2-P/L-E; Electro Craft, Inc., Stamford, Connecticut; Docket No. 9773, Files Nos. 4974/4975-C2-P-E.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C. on the 13th day of November 1950;

The Commission, having under consideration its Order of August 23, 1950, designating the above applications for hearing without specifying a date therefor; and

It appearing, that it is now appropriate and desirable to fix a date for such hearing;

It is ordered, that the hearing in this proceeding shall be held at the offices of the Commission at Washington, D. C., beginning at 10:00 a. m. on the 4th day of December 1950 before Jack P. Blume, Hearing Examiner.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10610; Filed, Nov. 22, 1950;
8:47 a. m.]

[Docket Nos. 9755, 9756]

LAWTON-FT. SILL BROADCASTING CO. AND
CADDO BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of Byrne Ross, Lila G. Ross, Robert R. Harrison & Dorothy V. Harrison d/b as Lawton-Ft. Sill Broadcasting Company, Lawton, Oklahoma; Docket No. 9755, File No. BP-7665; J. D. Allen tr/as Caddo Broadcasting Company, Anadarko, Oklahoma; Docket No. 9756, File No. BP-7737.

The Commission having under consideration a petition filed on November 3, 1950, by J. D. Allen, doing business as Caddo Broadcasting Company, Anadarko, Oklahoma, requesting that the hearing in the above-entitled proceeding be continued; and

It appearing, that no opposition to said petition has been filed, although the time for filing the same has expired; and

It further appearing, that the above proceeding was originally scheduled for hearing at Washington, D. C., on January 26, 1950, and that on September 20, 1950, the Commission advanced the date of said hearing to November 24, 1950, and the applicant herein alleges that by reason of said advancement of the date of hearing it has not had adequate opportunity to prepare for said hearing; and

It further appearing, that the public interest would be served by continuing the hearing for approximately 60 days in order to afford the parties hereto an additional opportunity to prepare for the same;

It is ordered, This 13th day of November 1950, that the petition of J. D. Allen, doing business as Caddo Broadcasting Company, requesting a continuance of the hearing, is hereby granted, and the hearing herein, is hereby continued, to January 29, 1951, at Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10611; Filed, Nov. 22, 1950;
8:47 a. m.]

[Docket Nos. 9556, 9686]

NARRAGANSETT BROADCASTING CO. (WALE),
AND EASTERN CONNECTICUT BROADCAST-
ING CO. (WICH)

ORDER CONTINUING HEARING

In re applications of Narragansett Broadcasting Company (WALE), Fall River, Massachusetts; Docket No. 9556, File No. BR-2076; for renewal license; Eastern Connecticut Broadcasting Company (WICH), Norwich, Connecticut; Docket No. 9686, File No. BP-7599; for construction permit.

The Commission having under consideration a petition filed November 10, 1950 by Eastern Connecticut Broadcasting Company, requesting a continuance to some date during the week commencing December 4, 1950, of the hearing on the above-entitled applications presently scheduled for November 16, 1950, at Washington, D. C.; and

It appearing, that the applicant has filed a petition for reconsideration and grant of its application without a hearing and such petition is now pending before the Commission; and

It further appearing, that all parties to the above proceeding and Commission counsel have informally consented to a waiver of § 1.745 of the Commission's rules and regulations to permit the early consideration and grant of the petition for continuance;

It is ordered, This 13th day of November 1950, that the petition be, and it is hereby, granted; and that the hearing on the above-entitled applications now scheduled for November 16, 1950, be, and it is hereby, continued until December 8, 1950.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10612; Filed, Nov. 22, 1950;
8:47 a. m.]

[Docket Nos. 9566, 9626]

WINTER GARDEN BROADCASTING CO., AND
COMMUNITY BROADCASTING CO. (KUNO)

ORDER CONTINUING HEARING

In re applications of John H. Mayberry tr/as Winter Garden Broadcasting Company, Crystal City, Texas; Docket No. 9566, File No. BP-7255; Leslie C. Smith, B. G. Moffett and J. H. Mayberry, a partnership d/b as Community Broadcasting

Company (KUNO), Corpus Christi, Texas; Docket No. 9626; File No. BMP-5034; for construction permit and modification of construction permit.

The Commission having under consideration (1) a petition filed November 8, 1950, by John H. Mayberry tr/as Winter Garden Broadcasting Company (Docket No. 9566), requesting (a) leave to amend his application, (b) remove the application, as amended, from the Hearing Docket, and (c) to continue the hearing; and (2) a petition filed October 31, 1950, by Leslie C. Smith, B. G. Moffett, and John H. Mayberry, a partnership doing business as Community Broadcasting Company (KUNO) (Docket No. 9626), requesting the Commission to reconsider its order of October 23, 1950, wherein the Commission denied a previously filed petition to grant without a hearing, amended its order of April 13, 1950, designating the application for hearing, and scheduled the hearing to begin on November 16, 1950; and (3) a pleading filed November 8, 1950, by Community Broadcasting Company (KUNO) supplementing its petition of October 31, 1950, and requesting the Commission (a) to grant the pending application of Community Broadcasting Company without hearing and, (b) pending action on such request, to continue the hearing now scheduled to begin November 16, 1950; and

It appearing that in his petition for leave to amend, John H. Mayberry tr/as Winter Garden Broadcasting Company, requests permission to change the frequency requested by him to 1240 kc with power of 250 watts, unlimited time, at Crystal City, Texas, in lieu of his present request for an assignment on 1400 kc with power of 250 watts, unlimited time. The purpose of the amendment is to remove the possibility of interference between the station proposed by Winter Garden Broadcasting Company and Station KUNO operating on 1400 kc with power of 250 watts as proposed by Community Broadcasting Company; and

It appearing that the petition and supplemental petition of Community Broadcasting Company (KUNO) request continuance of the hearing in the above-entitled proceeding in order to give John H. Mayberry and others, time within which to file with the Commission and application to transfer the interest which Mr. Mayberry has in Station KBKI, Alice, Texas, to others and thereby remove one of the issues to be developed at the hearing; and

It appearing that good cause has been shown that the petition of John H. Mayberry tr/as Winter Garden Broadcasting Company, Docket No. 9566, should be granted and that he be permitted to amend his application and by such amendment, issues relating to the interference from the station proposed by him to Station KUNO, operating as proposed, in Docket No. 9626, will be eliminated; that John H. Mayberry, by transferring his interests in Station KBKI, will remove another of the issues to be developed at the hearing in Docket No. 9626; good cause having been shown that the requested petition for continuance should be granted; and all parties having consented to immediate consideration of the pending petitions;

It is ordered, This the 10th day of November 1950, that the petition of John H. Mayberry tr/as Winter Garden Broadcasting Company (Docket No. 9566) for leave to amend his application is granted; his application is amended; and said application, as amended, is removed from the hearing docket; and the application, as amended, having been removed from hearing, so much of the petition as requests continuance of the hearing is dismissed as moot, and the petition and supplemental petition of Leslie C. Smith, B. G. Moffett, and John H. Mayberry doing business as Community Broadcasting Company (KUNO), Docket No. 9626, insofar as said petition requests continuance of the hearing now scheduled for November 16, 1950, be and it is hereby granted, and the hearing is continued to a date to be announced after Commission consideration of that part of the petition which requests reconsideration and grant of the application without a hearing.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-10613; Filed, Nov. 22, 1950;
8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6330]

FRONTIER POWER CO.

NOTICE OF APPLICATION

NOVEMBER 20, 1950.

Take notice that on November 20, 1950, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Frontier Power Company, a corporation organized under the laws of the State of Colorado, and doing business in the States of Colorado and New Mexico, with its principal business office at Trinidad, Colorado, seeking an order authorizing the sale of certain of its electric facilities known as the Dawson Division of Applicant, consisting of the power plant and substation located at Dawson, New Mexico, the transmission line running generally south from Dawson through Colfax, Maxwell, Springer, Colmor to Wagon Mound, New Mexico, and other facilities located in said communities and adjacent territory. The application states that the Applicant has entered into preliminary agreements to sell its Dawson Division to Springer Electric Cooperative, Inc., and Town of Springer, New Mexico. Applicant, by such agreements, has agreed to sell distribution system in the Town of Springer to Town of Springer, New Mexico, for the sum of \$118,000, subject to certain adjustments. The remainder of the Dawson Division, except the Dawson power plant and substation, is to be sold to the Springer Electric Cooperative, Inc., for the sum of \$159,000, subject to certain agreements. The Dawson power plant and substation are to be sold to Springer Electric Cooperative, Inc., for the sum of \$150,000, subject to certain adjustments; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 2d day of December 1950, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL]

J. H. GUTRIE,
Acting Secretary.[F. R. Doc. 50-10603; Filed, Nov. 22, 1950;
8:46 a. m.]

[Docket No. G-1536]

NATURAL GAS PIPELINE CO. OF AMERICA
AND TEXOMA NATURAL GAS CO.

NOTICE OF APPLICATION

NOVEMBER 17, 1950.

Take notice that on November 15, 1950, Natural Gas Pipeline Company of America (Natural), and Texoma Natural Gas Company (Texoma), Delaware corporations, both having their principal place of business in Chicago, Illinois, filed a joint application pursuant to section 7 of the Natural Gas Act.

Natural seeks a certificate of public convenience and necessity authorizing it to acquire and operate all of the facilities of Texoma used or useful for the transportation of natural gas subject to the jurisdiction of the Commission.

Texoma requests permission and approval of the Commission under section 7 (b) of the act, allowing Texoma to abandon by conveyance and transfer to Natural of all of its facilities subject to the jurisdiction of the Commission and to terminate the service presently rendered by Texoma by means of such facilities.

Texoma's principal transmission facilities which Natural seeks to acquire include two compressor stations; one station known as Station No. 21 in Hutchinson County, Texas, and one known as Station No. 22 in Moore County, Texas; a main pipeline 24 inches in diameter extending northeasterly for a distance of some 74 miles from said Station No. 21 to the inlet of Natural's transportation system near Gray, Oklahoma; a main pipeline 26 inches in diameter extending northeasterly for a distance of some 70 miles from said Station No. 22 to said inlet of Natural's transportation system; a metering station at the terminal of said pipeline; and appurtenant facilities.

Texoma presently sells natural gas to Natural, totaling approximately 340 million cubic feet per day.

Natural's application recites that the acquisition of all of the properties and assets now owned by Texoma, by statutory merger, will result in the cancellation of all obligations between Natural and Texoma, and the assumption by Natural of all obligations, including contractual obligations, of Texoma to third parties, and, after the acquisition of said properties, Natural desires to continue the activities now conducted by Texoma.

Texoma desires that Natural acquire all of its properties and assets. Coinci-

dent with the consummation of the merger, Natural will issue to The Peoples Gas Light and Coke Company 5,000 shares of its no-par capital stock in exchange for the 10,000 shares of the no-par capital stock of Texoma held by Peoples Gas, and the stock of Texoma will be cancelled. It is Applicants' desire to complete such merger as of December 31, 1950.

The application is on file with the Commission for public inspection. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) before the 7th day of December 1950.

[SEAL]

J. H. GUTRIE,
Acting Secretary.[F. R. Doc. 50-10588; Filed, Nov. 22, 1950;
8:45 a. m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF COMMERCE

DELEGATION OF AUTHORITY WITH RESPECT TO PROCUREMENT CONTRACTS FOR EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH PURPOSES BY NATIONAL BUREAU OF STANDARDS FOR EXECUTIVE AGENCIES

1. Pursuant to the authority vested in the Administrator of General Services by provisions of the Federal Property and Administrative Services Act of 1949, as amended (Pub. Laws 152 and 754, 81st Cong.), authority is hereby delegated to the Secretary of Commerce, for use by the National Bureau of Standards, to make purchases and contracts for supplies and services, for the use of executive agencies, pursuant to Title III of the aforesaid act, whenever the Secretary of Commerce determines that the purchase or contract is one coming within the provisions of subsection 302 (c) (10) of that act.

2. This delegation of authority shall be effective October 20, 1950.

Dated: November 17, 1950.

RUSSELL FORBES,
Acting Administrator.[F. R. Doc. 50-10616; Filed, Nov. 22, 1950;
8:47 a. m.]

NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DELEGATION OF AUTHORITY WITH RESPECT TO PROCUREMENT OF APPRAISAL SERVICES AND REPORTS

1. Pursuant to the authority vested in the Administrator of General Services by provisions of the Federal Property and Administrative Services Act of 1949, as amended (Pub. Laws 152 and 754, 81st Cong.), and having determined that such action is advantageous to the government, in terms of economy and efficiency, authority is hereby delegated to the National Capital Park and Planning Commission to make purchases and contracts for appraisal services and reports pursuant to Title III of the aforesaid act: *Provided, however, That such pur-*

chases and contracts may be negotiated only if it is determined by the Commission that the facts are such as to bring the purchase or contract in question within the provisions of subsection 302 (c) (4) (contracts with individuals only) or 302 (c) (9) of the aforesaid act.

2. This delegation shall not include the authority relating to advance payments contained in section 305 of the aforesaid act.

3. This delegation of authority shall be effective October 24, 1950.

Dated: November 17, 1950.

RUSSELL FORBES,
Acting Administrator.[F. R. Doc. 50-10617; Filed, Nov. 22, 1950;
8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25582]

GLASSWARE TO NEW ORLEANS, LA.

APPLICATION FOR RELIEF

NOVEMBER 20, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to Agent R. G. Raasch's tariff I. C. C. No. 699, pursuant to fourth-section order No. 16101.

Commodities involved: Glassware, viz: bottles, etc., carloads.

From: Alton, Lincoln, and Streator, Ill.

To: New Orleans, La.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,
Secretary.[F. R. Doc. 50-10589; Filed, Nov. 22, 1950;
8:45 a. m.]

[4th Sec. Application 25583]

SUPERPHOSPHATE TO LYONS, NEW YORK

APPLICATION FOR RELIEF

NOVEMBER 20, 1950.

The Commission is in receipt of the above-entitled and numbered applica-

NOTICES

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, Agent, for and on behalf of The Baltimore and Ohio Railroad Company and other carriers named in the application.

Commodities involved: Run-of-pile superphosphate, in bulks, carloads, minimum weight 100,000 pounds.

From: Baltimore, Md., and Carteret, N. J.

To: Lyons, N. Y.

Grounds for relief: Competition with rail carriers. Competition with water carriers.

Schedules filed containing proposed rates: B & O. RR. tariff I. C. C. No. 23400, Supp. 56; CRR of N.J. tariff I. C. C. No. G-5582, Supp. 250; P. RR. tariff I. C. C. No. 3069, Supp. 4; W. Md. Ry. tariff I. C. C. No. 8940, Supp. 4.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-10590; Filed, Nov. 22, 1950;
8:45 a. m.]

[4th Sec. Application 25584]

**MOTOR-RAIL-MOTOR RATES—CHICAGO
GREAT WESTERN RAILWAY CO. AND
FREIGHT WAYS, INC.**

APPLICATION FOR RELIEF

NOVEMBER 20, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Midwest Motor Freight Bureau, Agent for and on behalf of the Chicago Great Western Railway Company and Freight Ways, Inc.

Commodities involved: All commodities.

Between: Chicago, Ill., and Kansas City, Mo.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: Midwest Motor Freight Bureau, Agent, tariff I. C. C. No. 22, Supp. 28.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission

in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-10591; Filed, Nov. 22, 1950;
8:45 a. m.]

[4th Sec. Application 25585]

ILMENITE ORE FROM MELBOURNE, FLA.

APPLICATION FOR RELIEF

NOVEMBER 20, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1188.

Commodities involved: Ilmenite ore and concentrates, carloads.

From: Melbourne, Fla.

To: Fostoria and Toledo, Ohio and Flint, Mich.

Grounds for relief: Competition with rail carriers; circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1188, Supp. 5.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-10592; Filed, Nov. 22, 1950;
8:45 a. m.]

[4th Section Application 25586]

LIME FROM SALLISAW, OKLA.

APPLICATION FOR RELIEF

NOVEMBER 20, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3572.

Commodities involved: Lime, common, hydrated, quick or slacked, carloads.

From: Sallisaw, Okla.

To: Baton Rouge and New Orleans, La.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3572, Supp. 66.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-10593; Filed, Nov. 22, 1950;
8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 59-96]

WISCONSIN ELECTRIC POWER CO. ET AL.

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of November 1950.

This Commission, by order dated August 15, 1950 (Holding Company Act Release No. 10030) having instituted proceedings under section 11 (b) (1) of the Public Utility Holding Company Act of 1935 with respect to Wisconsin Electric Power Company, a registered holding company, and its subsidiary companies and said order having directed that a hearing be held in such matter on November 7, 1950, at the offices of the Commission in Washington, D. C.; and

The Public Service Commission of Wisconsin, a party to such proceedings, having filed a petition on October 4, 1950, with this Commission requesting (a) that the hearing heretofore ordered to be held on November 7, 1950, be postponed

poned to a date subsequent to November 17, 1950, and (b) that for the convenience and necessity of the parties such hearing be held at Madison, Wisconsin; and this Commission, by order dated October 13, 1950, having postponed said hearing until November 28, 1950, and having denied the request that such hearing be held in Madison, Wisconsin, but without prejudice to the renewal of such request at an appropriate time; and

The Staff of the Division of Public Utilities of this Commission, having requested that said hearing be further postponed from November 28, 1950, to January 15, 1951, and

The Public Service Commission of Wisconsin, having renewed its request that said hearing be held in Madison, Wisconsin; and

The Commission having considered said requests and the reasons advanced in support thereof and deeming it appropriate in the public interest and in the interest of investors and consumers that the request to further postpone the aforesaid hearing be granted but that the request to hold such hearing in Madison, Wisconsin, be denied, without prejudice, however, to the renewal of such request at an appropriate time during the course of such hearing:

It is ordered, That the hearing heretofore scheduled to be held in this proceeding on November 28, 1950, be, and the same hereby is, postponed until January 15, 1951, at the same time and place and before the same hearing officer as heretofore prescribed, without prejudice, however, to the right of the Public Service Commission of Wisconsin to renew its request at an appropriate time during such hearing that such hearing be held in Madison, Wisconsin.

It is further ordered, That the Secretary of this Commission shall serve notice of the postponed hearing by mailing a copy of this notice by registered mail to all persons previously served in this proceeding and to all persons having heretofore filed herein applications to be heard; and that notice of said postponed hearing is hereby given to Wisconsin Electric Power Company and its subsidiaries, to all states, municipalities and political subdivisions of states within which are located any of the physical assets of said companies or under the laws of which any of said companies are incorporated, to all state commissions, state security commissions, and all agencies, authorities and instrumentalities of any state, municipality, or other political subdivision having jurisdiction over Wisconsin Electric Power Company or its subsidiaries or any of the business, affairs or operations of any of them and to all other interested persons, such notice to be given by a general release of this Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication of this notice in the FEDERAL REGISTER.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-10594; Filed, Nov. 22, 1950;
8:46 a. m.]

[File No. 70-2345]

SOUTHERN NATURAL GAS CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 16th day of November A. D. 1950.

Southern Natural Gas Company ("Southern"), a registered holding company, having filed an application pursuant to the provisions of Section 10 of the Public Utility Holding Company Act of 1935 with respect to the acquisition by it of 37,500 shares of the common stock of Coastal Pipe Line Company for the sum of \$37,500, such number of shares being all of the outstanding shares of stock of such company except for 12,500 shares presently owned by Southern; and

Said application having been filed on February 28, 1950, and an amendment thereto having been filed on October 23, 1950, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application that the requirements of the applicable provision of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said application be granted:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that the said application be, and hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-10596; Filed, Nov. 22, 1950;
8:46 a. m.]

[File Nos. 70-2504, 70-2505]

STANDARD GAS AND ELECTRIC CO. AND WISCONSIN PUBLIC SERVICE CORP.

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 16th day of November 1950.

Standard Gas and Electric Company ("Standard"), a registered holding company, and a subsidiary of Standard Power and Light Corporation, also a registered holding company, and Standard's subsidiary Wisconsin Public Service Corporation ("Wisconsin") have filed applications and a declaration, and amendments thereto, pursuant to the provisions of the Public Utility Holding Company Act of 1935 ("act"). Standard has designated sections 9, 10 and 12 of the act and Wisconsin has designated section 6 (b) of the act and Rule U-43

and U-50 promulgated thereunder as applicable to the following proposed transactions:

Wisconsin proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, \$4,000,000 principal amount of a new series of First Mortgage Bonds, Series due November 1, 1980. The bonds are to be issued under the provisions of the First Mortgage and Deed of Trust, dated January 1, 1941, from Wisconsin to First Wisconsin Trust Company, as Trustee, as supplemented by Supplemental Indentures dated November 1, 1947, August 1, 1948 and September 1, 1949, and as further supplemented by a new Supplemental Indenture to be dated as of November 1, 1950. The price (exclusive of accrued interest), to be not less than 100 percent or more than 102½ percent of the principal amount, and the coupon rate, to be a multiple of ½ of 1 percent, are to be determined by the bidding.

Prior to or simultaneously with the sale of said bonds, Wisconsin proposes (a) to issue and sell to Standard, and Standard proposes to buy, 225,000 shares of Wisconsin's authorized and unissued Common Stock, par value \$10 per share, for a total cash consideration of \$2,250,000, and (b) to issue and distribute to Standard 150,000 shares of the Common Stock of Wisconsin as a dividend upon Wisconsin's outstanding Common Stock at the record date to be fixed for such distribution, in order to evidence the dedication to capital of a portion of the earned surplus of Wisconsin. Such stock dividend is to be declared and paid during the last quarter of 1950 in lieu of any cash dividend for such quarter. Cash dividends at the rate of 25 cents per share on said Common Stock have been paid for each of the first three quarters of 1950.

Standard, which presently owns all of the outstanding Common Stock of Wisconsin, constituting 100 percent of the voting securities, states that it desires to acquire the aforesaid Common Stock of Wisconsin in order to provide the latter with additional permanent capital and to increase the amount of its equity capital.

Wisconsin proposes to apply part of the proceeds from the proposed issuance and sale of said bonds and shares of Common Stock (estimated in the aggregate amount of \$6,250,000) to the repayment, without premium, of its outstanding short-term bank loans in the amount of \$3,300,000 and the balance will be applied toward the payment of current construction expenditures. The construction program of Wisconsin for 1950 is estimated at \$6,000,000, exclusive of \$1,100,000 which it is estimated will be required for the purchase in 1950 of capital stock of its subsidiary Wisconsin River Power Company.

The Public Service Commission of the State of Wisconsin, the State in which Wisconsin is organized and doing business, has authorized the issuance of the Common Stock but has withheld authority for the issuance of the bonds pending receipt of the terms and conditions to be determined by the bidding. Standard states that no commission other than this Commission has juris-

diction over its proposed acquisition of Wisconsin Common Stock.

Standard and Wisconsin request that the Commission's order become effective forthwith upon issuance and Wisconsin further requests that the ten-day notice period for invitation of bids required by Rule U-50 (b) be shortened to six days.

Said applications and declaration, and the amendments thereto, having been duly filed; and notice of the filing having been given in the form and manner prescribed by Rule U-23 promulgated under the act; and the Commission not having received a request for hearing with respect to said applications or declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said applications, as amended, and said declaration, as amended, that the requirements of the applicable provisions of the act and rules promulgated thereunder are satisfied, and that it is not necessary to impose any terms and conditions other than those set forth below; and the Commission deeming it appropriate in the public interest and the interest of investors or consumers that the said applications, as amended, be granted, and that the said declaration, as amended, be permitted to become effective and that the Commission's order herein become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the said applications, as amended, and the said declaration, as amended, be and the same are hereby granted and permitted to become effective forthwith, subject to the terms and conditions prescribed by Rule U-24 and subject to the further following conditions:

(a) That the issuance and sale of the new bonds by Wisconsin Public Service Corporation shall not be consummated until the results of competitive bidding pursuant to Rule U-50 with respect thereto shall have been made a matter of record herein and a further order shall have been entered, which order may contain such further terms and conditions as may then be deemed appropriate, jurisdiction being hereby reserved for such purpose.

(b) That jurisdiction be, and the same hereby is, reserved over all fees and expenses incurred in connection with the proposed transactions, including fees and expenses for counsel for the successful bidder.

It is further ordered, That the request of Wisconsin Public Service Corporation for authority to shorten to six days the ten-day notice period for bids provided for by Rule U-50, be, and the same hereby is granted.

It is further ordered, That the Commission's order of August 8, 1941, the effect of which is to require Standard Gas and Electric Company to sever its relationship with Wisconsin Public Service Corporation by disposing of or causing the disposition, in any appropriate manner not in contravention of the applicable provisions of the act or the rules and regulations promulgated thereunder, of its direct and indirect ownership, control and holding of securities issued

by Wisconsin Public Service Corporation, shall be deemed to require the disposition of all shares of Common Stock, par value \$10 per share, of Wisconsin Public Service Corporation acquired pursuant to this order by Standard Gas and Electric Company, with the same force and effect as if said shares had been held by Standard Gas and Electric Company as of the date of said order dated August 8, 1941.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-10598; Filed, Nov. 22, 1950;
8:46 a. m.]

[File No. 70-2509]

CENTRAL POWER AND LIGHT CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1950.

Central Power and Light Company ("Central"), a public utility subsidiary of Central and South West Corporation, a registered holding company, having filed a declaration, and amendments thereto, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 promulgated thereunder, with respect to the following transactions:

Central proposes to issue and sell, at competitive bidding pursuant to the requirements of Rule U-50, \$10,000,000 principal amount of its First Mortgage Bonds, Series C, — percent due 1980, to be issued under and secured by the company's Indenture of Mortgage dated November 1, 1943, as modified by Supplemental Indentures dated December 19, 1945, and October 1, 1947, and by a proposed Supplemental Indenture to be dated November 1, 1950. The interest rate per annum on said bonds (to be a multiple of $\frac{1}{8}$ of 1 percent), and the price, exclusive of accrued interest, to be received by the company (to be not less than 100 percent nor more than 102.75 percent of the principal amount of said bonds), are to be determined at competitive bidding.

The declaration states that the net proceeds, exclusive of accrued interest, to be received by the company from the sale of the bonds will be used to pay or reimburse the company, in part, for the cost of additions, extensions and improvements made or to be made to the properties of the company, except that not to exceed \$750,000 of such proceeds will be used to pay an equal principal amount of short term notes, payable to banks, representing temporary borrowings to be made for construction purposes.

Central estimates that its fees and expenses in connection with the proposed transactions will aggregate \$48,000, including service company charges of \$7,000, Trustee's fees of \$6,800 and accountants' fees of \$1,500. The fee of independent counsel for underwriters,

to be paid by the successful bidders, is stated to be \$6,000.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Said declaration having been filed on October 19, 1950, and the last amendment thereto having been filed on November 16, 1950, and notice of said filing having been given in the form and manner prescribed in Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and the rules and regulations promulgated thereunder are satisfied, that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declaration, as amended, to become effective, subject to the conditions specified below, and the Commission also deeming it appropriate to grant declarant's request that the ten-day period for inviting bids provided by Rule U-50 be shortened to a period of not less than six days, and that the order herein become effective upon issuance thereof:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said declaration, as amended, be and the same hereby is, permitted to become effective, subject, however, to the terms and conditions prescribed in Rule U-24 and to the further condition that the sale of said bonds by Central shall not be consummated until the results of competitive bidding, pursuant to Rule U-50, shall have been made a matter of record in these proceedings and a further order shall have been entered by the Commission in the light of the record so completed, which order may contain such terms and conditions as may then be deemed appropriate, jurisdiction being reserved for such purpose.

It is further ordered, Pursuant to the request of Central, that the ten-day period for inviting bids, as provided by Rule U-50, be, and the same hereby is, shortened to a period of not less than six days and that this order shall become effective upon its issuance.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-10597; Filed, Nov. 22, 1950;
8:46 a. m.]

[File No. 70-2530]

UNITED GAS CORP. ET AL.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1950. In the matter of United Gas Corporation, Union Producing Company, United

Gas Pipe Line Company, File No. 70-2530.

Notice is hereby given that United Gas Corporation ("United"), a gas utility subsidiary of Electric Bond and Share Company, a registered holding company, and United's wholly owned subsidiary companies, Union Producing Company ("Union") and United Gas Pipe Line Company ("Pipe Line"), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") and have designated sections 6 (a), 7, 9 (a), 10, and 12 of the act and Rules U-23 and 43 (a) thereunder as applicable to the transactions proposed in said joint application-declaration, which may be summarized as follows:

United proposes to lend severally to Union and Pipe Line and each of the two latter companies proposes to borrow from United not in excess of \$2,000,000 each during a period of one year following the date of the entry by this Commission of an order authorizing such borrowings. The loans would be made in such installments and at such times as funds may be required and requested by the borrowing companies from United. The proceeds from the loans will be used by Union and Pipe Line to increase their working capital.

Each of the proposed loans will be evidenced by unsecured promissory notes issued by Union and Pipe Line to United or order from time to time, payable on or before six years from the date of issuance and bearing interest at the rate of 3% per annum.

United proposes to retain the notes of Pipe Line in its investment portfolio. With respect to the notes of Union, United will pledge \$1,000,000 principal of such notes with Guaranty Trust Company of New York, New York, the corporate trustee under United's Mortgage and Deed of Trust, dated as of October 1, 1944, as supplemented, securing United's presently outstanding First Mortgage and Collateral Trust Bonds.

In the application-declaration it is stated that the proposed transactions are not subject to the jurisdiction of any State commission, that no fees or commissions are to be paid, and that the expense to be incurred in connection with the proposed transactions will be nominal. The applicants-declarants have requested that any order of the Commission authorizing the proposed transactions issue as promptly as may be practicable and become effective upon issuance.

All interested persons are referred to said application-declaration which is on file in the offices of the Commission for a full statement of the transactions therein proposed.

Notice is further given that any interested person may, not later than November 27, 1950, at 11:00 a. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted; or he may request that he be notified if the Commission should order a hearing thereon. Any such re-

quest should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said hour and date said joint application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-10595; Filed, Nov. 22, 1950;
8:46 a. m.]

VETERANS' ADMINISTRATION

ORGANIZATION

Correction

In F. R. Document 50-10366, appearing in the issue for Friday, November 17, 1950, at page 7851, add at the end of the document the following signature: "O. W. Clark, Deputy Administrator."

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 15481]

HENRY FRANZ

In re: Estate of Henry Franz, deceased. File No. D-28-12895; E. T. sec. 17054.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Franz and Emelia Staniel, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of Henry Franz, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Fred Lenz, as executor, acting under the judicial supervision of the Superior Court of the State of Washington, in and for the County of Lincoln, Davenport, Washington;

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 3, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10618; Filed, Nov. 22, 1950;
8:48 a. m.]

[Vesting Order 15566]

PAULA GEILING

In re: Rights of Paula Geiling under insurance contract. File No. F-28-30898-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paula Geiling, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 96 077 931, issued by the Metropolitan Life Insurance Company, New York, New York, to Paula Geiling, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have

NOTICES

the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10619; Filed, Nov. 22, 1950;
8:48 a. m.]

[Vesting Order 15572]

GERTRUD KIPF

In re: Rights of Gertrud Kipf under insurance contract, File No. F-28-24813-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Gertrud Kipf, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 4 721 846, issued by The Prudential Insurance Company of America, Newark, New Jersey, to Gertrud Kipf, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10620; Filed, Nov. 22, 1950;
8:48 a. m.]

[Vesting Order 15573]

JOHN G. KNAUT

In re: Rights of John G. Knaut under insurance contract, File No. F-28-28635-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That John G. Knaut, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 968,263, issued by the John Hancock Mutual Life Insurance Company, Boston, Massachusetts, to John G. Knaut, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10621; Filed, Nov. 22, 1950;
8:48 a. m.]

[Vesting Order 15574]

EVA METZ

In re: Rights of Eva Metz under insurance contract, File No. F-28-27953-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Eva Metz, whose last known address is Germany, is a resident of

Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. M-3853533, issued by The Prudential Insurance Company of America, Newark, New Jersey, to G. Eugene Metz, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10622; Filed, Nov. 22, 1950;
8:48 a. m.]

[Vesting Order 15575]

TORANASUKI MINAMI ET AL.

In re: Rights of Toranasuki Minami et al. under insurance contract, File No. F-39-4457-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Toranasuki Minami, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Toranasuki Minami, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan);

3. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 7591743, is-

sued by the New York Life Insurance Company, New York, New York, to Toranasuki Minami, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, Toranasuki Minami or the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Toranasuki Minami, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof, and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Toranasuki Minami, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan);

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10623; Filed, Nov. 22, 1950; 8:48 a. m.]

[Vesting Order 15578]

HELENE NERLICH

In re: Rights of domiciliary personal representatives, et al., of Helene Nerlich under contract of insurance. File No. F-28-23403-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Helene Nerlich, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 90,235 issued by the Workmen's Benefit Fund, Brooklyn 27, New York, to Adolf Nerlich, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Helene Nerlich, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10624; Filed, Nov. 22, 1950; 8:48 a. m.]

[Vesting Order 15577]

LEONHARD OTT

In re: Rights of Leonhard Ott under insurance contract. File No. D-28-10978-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Leonhard Ott, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. GR-8176—Certificate 639, issued by the Aetna Life Insurance Company, Hartford, Connecticut, to George Fred Ott, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not

within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10625; Filed, Nov. 22, 1950; 8:50 a. m.]

[Vesting Order 15578]

LUCY PAHLKE

In re: Rights of Lucy Pahlke under insurance contract. File No. D-28-10984-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lucy Pahlke, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 20 757, issued by the Workmen's Benefit Fund, Brooklyn, New York, to Ida Duebelt, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the prop-

NOTICES

erty described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10626; Filed, Nov. 22, 1950;
8:50 a. m.]

[Vesting Order 15581]

ELLINOR GERTRUD THORER ET AL.

In re: Rights of Ellinor Gertrud Thorer et al., under contract of insurance. File No. F-28-26607-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ellinor Gertrud Thorer, Christine Thorer, Eberhard Thorer and Jurgen Thorer, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Ellinor Gertrud Thorer, the issue, names unknown, of Christine Thorer, of Eberhard Thorer and of Jurgen Thorer, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 255150 issued by the Connecticut General Life Insurance Company, Hartford, Connecticut, to Arndt Johannes Max Thorer, together with the right to demand, receive and collect said proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Ellinor Gertrud Thorer, the issue names unknown, of Christine Thorer, of Eberhard Thorer and of Jurgen Thorer are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being

deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10629; Filed, Nov. 22, 1950;
8:51 a. m.]

[Vesting Order 15579]

LUISE RUMMELEIN

In re: Rights of Luise Rummelein under insurance contracts. File F-28-24649 H-1 and H-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Luise Rummelein, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under contracts of insurance evidenced by Policies No. 90856612 and No. 93621070, issued by the Metropolitan Life Insurance Company, New York, New York, to Luise Rummelein, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10627; Filed, Nov. 22, 1950;
8:50 a. m.]

[Vesting Order 15580]

ANTON AND ANDEAS SCHAFFER

In re: Rights of Anton Schaffer and Andeas Schaffer under Insurance Contract. File F-28-24434-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anton Schaffer and Andeas Schaffer, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 3502905A issued by the Metropolitan Life Insurance Company, New York, New York, to Anton Schaffer, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership of control by Anton Schaffer or Andeas Schaffer, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10628; Filed, Nov. 22, 1950;
8:51 a. m.]

[Vesting Order 15582]

LILLIE I. TSUMARU ET AL.

In re: Rights of Lillie I. Tsumaru et al. under insurance contract, File No. F-39-4528-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lillie I. Tsumaru and Mata Tsumaru, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 8867370D issued by the New York Life Insurance Company, 51 Madison Avenue, New York 10, New York, to Lillie I. Tsumaru, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Lillie I. Tsumaru or Mata Tsumaru, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10630; Filed, Nov. 22, 1950;
8:51 a. m.]

[Vesting Order 15584]

KANICHI UYEMOTO

In re: Rights of Kanichi Uyemoto under insurance contract, File No. F-39-4545-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kanichi Uyemoto and Ishi Uyemoto, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 8924684 issued by the New York Life Insurance Company, New York 10, New York, to Kanichi Uyemoto, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Kanichi Uyemoto or Ishi Uyemoto, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10631; Filed, Nov. 22, 1950;
8:51 a. m.]

[Vesting Order 15585]

NORIO AND SHIZUKO YAMAMOTO

In re: Rights of Norio Yamamoto and Shizuko Yamamoto under insurance contract, File No. D-39-14537-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Norio Yamamoto and Shizuko Yamamoto, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 8409224, issued by the New York Life Insurance Company, New York, New York, to Norio Yamamoto, together with the right to demand, receive and collect said net

proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, Norio Yamamoto or Shizuko Yamamoto, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10632; Filed, Nov. 22, 1950;
8:51 a. m.]

[Vesting Order 15586]

MARY ZYLBERBERG

In re: Rights of Mary Zylberberg under contract of insurance. File No. F-28-24422-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mary Zylberberg, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 5,870,287-A issued by the Metropolitan Life Insurance Company, New York, New York, to Bennie Rosen, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Mary Zylberberg, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the

national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 9, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10633; Filed, Nov. 22, 1950;
8:51 a. m.]

[Return Order 775]

WILLIAM GERB

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

William Gerb, Styria, Graz, Austria; Claim No. 37614; September 6, 1950 (15 F. R. 6010), property described in Vesting Order No. 201 (8 F. R. 625, January 16, 1943), relating to United States Letters Patent Nos. 2,045,384 and 2,148,937. This return shall not be deemed to include the rights of any licensees under the above patents.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10634; Filed, Nov. 22, 1950;
8:51 a. m.]

[Return Order 796]

MARGARETE BONWITT ET AL.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Margarete Bonwitt, Haifa, Israel; Ernest Bonwitt, Manchester, England; Lotte Gronemann, nee Bonwitt, Haifa, Israel; Claim No. 36623; October 13, 1950 (15 F. R. 6899); \$473.03 in the Treasury of the United States, $\frac{1}{4}$ returnable to Margarete Bonwitt, $\frac{3}{4}$ each to Ernest Bonwitt and Lotte Gronemann, nee Bonwitt.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10635; Filed, Nov. 22, 1950;
8:51 a. m.]

[Return Order 799]

MADDALENA GREGORIO

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Maddalena Gregorio, Chiaverano, Italy; Claim No. 36047; October 13, 1950 (15 C. F. R. 6900); \$3,112.10 in the Treasury of the United States. All right, title and interest of Maddalena Gregorio in and to the trust created under the will of Louis D. Gregorio, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10637; Filed, Nov. 22, 1950;
8:52 a. m.]

[Return Order 797]

ANDRE COLAS ET AL.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued

thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Andre Colas, Jacques Colas, Paul Francois Colas, Jean Andre Colas, Paul Louis Colas, Paris, France; Marie Antoinette Lopez, nee Colas, Neuilly (Seine), France; Societe Alfa, Paris, France; Claim Nos. 41692, 41693, 41694 and 42253; October 13, 1950 (15 F. R. 6900); property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent No. 2,190,014; a $\frac{36}{72}$ part is returnable to Societe Alfa, a $\frac{15}{72}$ part each to Andre Colas and Jacques Colas, a $\frac{3}{72}$ part to Paul Francois Colas and a $\frac{1}{72}$ part each to Paul Louis Colas, Jean Andre Colas and Marie Antoinette Lopez, nee Colas. This return shall not be deemed to include the rights of any licensees under the above patent.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10636; Filed, Nov. 22, 1950;
8:52 a. m.]

ZOLTAN AND ADA SZTANKAY

REVOCATION OF NOTICE OF INTENTION TO RETURN VESTED PROPERTY

The Notice of Intention to Return Vested Property relating to the Claim No. 4240 of Zoltan and Ada Sztankay, executed July 14, 1950, and published in the FEDERAL REGISTER July 21, 1950 (15 F. R. 4704), is hereby revoked.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10638; Filed, Nov. 22, 1950;
8:52 a. m.]

WILLIEM P. VAN LAMMEREN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Williem P. Van Lammeren, Voorschoten, The Netherlands, Claim No. 6056, Property described in Vesting Order No. 671 (8 F. R. 5004, April 17, 1943), relating to United States Letters Patent Nos. 1,772,119; 1,812,814;

1,880,302; 1,949,225; 2,085,484; 2,152,113 and 2,158,557.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10639; Filed, Nov. 22, 1950;
8:52 a. m.]

ALESSANDRO AND LINA WIDGOLF BRASS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Alessandro Brass and Lina Widgolf Brass both of Venice, Italy, Claim No. 40156, \$7,114.51 in the Treasury of the United States, payable as follows: $\frac{1}{2}$ to Alessandro Brass; $\frac{1}{2}$ to Alessandro Brass and Lina Widgolf Brass, with Lina Widgolf Brass having a life interest therein and Alessandro Brass being entitled to the remainder.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10640; Filed, Nov. 22, 1950;
8:52 a. m.]

WILHELMINA BEHRENS AND RUDOLPH DOSCH

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the fol-

lowing property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Wilhelmina Behrens, Executrix under the Last Will and Testament of Rudolph Dosch, deceased, New York, N. Y.; Claim No. 6246; \$432.70 in the Treasury of the United States.

The above property is being returned to claimant Executrix for the sole purpose of discharging the remaining expenses of administration incident to the probate of the Will of Rudolph Dosch, deceased.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10641; Filed, Nov. 22, 1950;
8:52 a. m.]

PIETRO DI FALCO ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Pietro Di Falco, Claim No. 2443; Donato Melchiorre, Claim No. 3257; Adelina Flacche, Claim No. 3337; Vincenzo Di Falco, Claim No. 3339; Nicholas Sambucco, Claim No. 4345; Nicola Di Falco, Claim No. 4866; Elvira Di Falco, Claim No. 36600; Elena Di Falco, Claim No. 36601; Domenica Rosa d'Onofrio Di Falco, Filomena Di Falco, Giovannina Di Falco and Alfonsa Di Falco, Claim No. 36602; Giuseppa Manzi, Claim No. 36603; Antoinetta Melchiorre, Claim No. 36604; Clorinda Melchiorre, Claim No. 36605; Nicolino Melchiorre, Claim No. 36606; Maria Nicola Santirocco, Claim No. 36607; Rosa Santirocco, Claim No. 36608; Maria Nicola Melchiorre, Claim No. 36609; Filomena Melchiorre, Claim No. 36610; \$9,456.92 in the Treasury of the United States payable as follows: $\frac{1}{4}$ to Pietro Di Falco; $\frac{1}{21}$, each, to Donato Melchiorre, Filomena Melchiorre and

Maria Nicola Melchiorre; $\frac{1}{4}$ to Nicholas Sambucco; $\frac{1}{42}$, each, to Clorinda Melchiorre, Nicolino Melchiorre, and Arcangelo Melchiorre, guardian for Antoinetta Melchiorre, a minor; a life interest (usufruct) in $\frac{1}{21}$ to Domenica Rosa d'Onofrio Di Falco; $\frac{1}{21}$, each, to Giovannina Di Falco, Alfonsa Di Falco, and Filomena Di Falco, and an additional $\frac{1}{42}$ to each of them, subject to the aforementioned life interest of Domenica Rosa d'Onofrio Di Falco; $\frac{1}{21}$, each, to Nicola Di Falco, Vincenzo Di Falco, Adelina Flacche, Elvira Di Falco and Elena Di Falco; $\frac{1}{4}$ to Giuseppa Manzi; and $\frac{1}{4}$, each, to Maria Nicola Santirocco and Rosa Santirocco.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10642; Filed, Nov. 22, 1950;
8:52 a. m.]

ALBERT FERNAND JOSEPH BARET AND MAURICE FLORENT EDMOND SCHUERMANS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Albert Fernand Joseph Baret and Maurice Florent Edmond Schuermans, Liege, Belgium; Claim No. 40138; property described in Vesting Order No. 675 (8 F. R. 5029, April 17, 1943) relating to United States Letters Patent Nos. 2,198,554 and 2,278,567; an undivided one-half interest therein to each claimant.

Executed at Washington, D. C., on November 16, 1950.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 50-10643; Filed, Nov. 22, 1950;
8:52 a. m.]

